

Twelfth Parliament

Fourth Session
Afternoon Sitting)



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, MARCH 11, 2020

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

The following Papers were laid on the Table of the House–

(i) Reports of the Committee on Delegated Legislation on its consideration of the following two Bills;

- a) The County Statutory Instruments Bill (Senate Bill No. 21 of 2018); and
- b) The Statutory Instruments (Amendment) Bill No. (Senate Bill No. 24 of 2018).

(Hon. Fatuma Gedi - Vice-Chairperson, Select Committee on Delegated Legislation)

(ii) Report of the Departmental Committee on Lands on its consideration of the Lands (Amendment) Bill (National Assembly Bill No. 54 of 2019)

(Hon. Rachel Nyamai- Chairperson, Departmental Committee on Lands)

(iii) Report of the Departmental Committee on Finance and National Planning on its consideration of: -

- a) The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 36 of 2019); and
- b) The Kenya Uwezo Fund Bill (National Assembly Bill No. 42 of 2019).

(Hon. Joseph Limo- Chairperson, Departmental Committee on Finance & National Planning)

Report of the Departmental Committee on Communication, Information and Innovation on its consideration of the County Outdoor Advertising Control Bill (Senate Bill No. 19 of 2018).

(iv)

(Hon. William Kisang- Chairperson, Departmental Committee on Communication, Information & Innovation)

(v) Report of the Kenyan Delegation to the 7th Symposium of the Independent Commission Against Corruption of Hong Kong (ICAC) held in Hong Kong from 22nd to 24th May, 2019.

(Hon. Shakeel Shabbir -Chairperson, African Parliamentarians Network Against Corruption (APNAC))

5. NOTICES OF MOTION

The following Notice of Motion was given –

THAT, aware that according to the World Health Organization, an estimated 15 percent of the world's population live with some form of disability or different ability, with 80 percent of them living in developing countries; further aware in Kenya, approximately 6.5 million people live with some form of disability out of whom, 3.8 million are women and girls, while approximately 85 percent of the total number live in abject poverty; concerned that a majority Persons Living with Disabilities (PLWDs) face numerous challenges including being denied their fundamental rights and freedoms including the right to education and opportunities to work, virtually guaranteeing that they will live their lives in poverty which often exacerbates their vulnerability and dependency on other people, assistive devices and critical medical items and requirements; deeply concerned that lack of these devices, medical items and requirements makes it impossible for PLWDs to live normal and dignified lives; this House urges the National Government to provide assistive devices and required medical items and requirements free of charge to Persons Living with Disabilities at the Constituency level through government hospitals or any other government body and to put in place mechanisms for replacement of worn-out devices to enable them live a dignified life, be more productive and coexist with other people the society.

(Hon. Dennitah Ghati- Nominated Member)

6. QUESTIONS

The following Questions were asked –

(i) Question No.031/2020 by the Member for Loima (Hon. Jeremiah Lomorukai) regarding the number of persons who were affected by the floods in Turkana county in 2019.

(To be replied to by the Cabinet Secretary for Devolution and ASALs before the Departmental Committee on Administration and National Security)

- (ii) Question No.049/2020 by the Member for Sigowet-Sooiin (Hon. Kipsengeret Koros) regarding criteria used to deploy new police trainees upon graduation from police training colleges.

(To be replied to in written form by the Chairperson of the National Police Service Commission)

- (iii) Question No.050/2020 by the Member for Nambale (Hon. John Bunyasi) regarding the number of elderly persons, widows and those with extreme disability eligible for cash transfer benefits in Nambale Constituency.

(To be replied to by the Cabinet Secretary for Labour and Social Protection before the Departmental Committee on Labour and Social Welfare)

- (iv) Question No.051/2020 by the Member for Mwatate (Hon. Andrew Mwadime) regarding implementation status of the construction of *Mgeno/Saghala-Bughuta/Kazighau* electric fence project.

(To be replied to by the Cabinet Secretary for Energy before the Departmental Committee on Energy)

7. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE PRESIDENT’S RECOMMENDATIONS TO THE LAW OF CONTRACT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 1 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 recommendations to the Law of Contract (Amendment) Bill (National Assembly Bill No. 1 of 2019).

(The Leader of the Majority Party – 10.3.2020)

Debate arising;

Question put and agreed to.

8. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communication –

GUIDANCE FOLLOWING THE PASSAGE OF THE PRESIDENT’S RECOMMENDATIONS TO THE LAW OF CONTRACT (AMENDMENT) BILL, 2019)

Honourable Members, this guidance relates to the just concluded business, which is the agreement with the Report of the Committee of the whole House on the consideration of the President’s Reservations to the Law of Contract (Amendment) Bill (National Assembly Bill No. 1 of 2019).

Honourable Members, the House has voted to amend the Bill to accommodate all the amendments recommended by H.E the President. The recommendation of H.E the President to the House was deletion of Clause 2 of the Bill. The Bill as originally passed by the House had two Clauses, that is, Clauses 1 and 2. Clause 2 contained the substance of the Bill. Following the decision of the House, the Bill now as passed has only one Clause, which is Clause 1 which provides for the long title to the Bill.

In this regard, Honourable Members, as your Speaker, I will have nothing to present to the President for Assent as required under Article 115(5) of the Constitution, but to convey the effect of the decision of the House, which is that the Bill has been lost. The House is accordingly informed. I thank you!

9. **MOTION - REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE REPRESENTATION OF SPECIAL INTEREST GROUPS LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 52 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 Representation of Special Interest Groups Laws (Amendment) Bill (National Assembly Bill No. 52 of 2019).

(Hon. Jeremiah Kioni - Chairperson, Constitutional Implementation Oversight Committee - 10.3.2020)

Debate arising;

Question put and agreed to.

Motion made and Question proposed -

THAT, the Representation of Special Interest Groups Laws (Amendment) Bill (National Assembly Bill No. 52 of 2019) be now read a Third Time

Debate arising;

Question put and agreed to;

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

10. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communication -

COMMUNICATION REGARDING WITHDRAWAL OF PROVISIONS PROPOSING TO AMEND THE VALUE ADDED TAX ACT (NO. 35 OF 2013) IN THE BUSINESS LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 80 OF 2019)

Honourable Members, You will recall that the *Second Reading* of the Business Laws (Amendments) Bill (National Assembly Bill No. 80 of 2019) was concluded on March 10, 2020. What now remains is for the Bill to proceed to Committee stage. However, before the Bill proceeds to that stage, I wish to bring to the attention of the House the following information.

Honourable Members, I have since received a letter from the Leader of the Majority Party requesting for my consent to withdraw proposed amendments to the Value Added Tax Act (No. 35 of 2013) from the Business Laws (Amendments) Bill (National Assembly Bill No. 80 of 2019). In his letter, he indicates that these amendments will be appropriately dealt with during the

consideration of the Finance Bill, 2020, which is scheduled to be introduced by 30th April, 2020. Honourable Members, I have acceded to the request. This implies that the Bill will now be proceeded with without making reference to the withdrawn provisions. Thus, the Bill should be dealt with as though the provisions

proposing amendments to the Value Added Tax Act (No. 35 of 2013) were not part of the Bill. I thank you!

11. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Second Chairperson in the Chair

The Business Laws (Amendment) Bill (National Assembly Bill No. 80 of 2019)

Clause 2 - amendment proposed-

THAT, the Bill be amended by deleting Clause 2 and substituting therefor the following new Clause-

Amendment of section 3 of Cap. 23 2. Section 3(6) of the Law of Contract Act is amended-

- (a) in the definition of the word “sign” by inserting the words “physically or by means of an advanced electronic signature” immediately after the word “initial”;
- (b) by inserting the following new definition in proper alphabetical sequence-

“advanced electronic signature” has the same meaning as defined in the Kenya Information and Communications Act, No. 2 of 1998.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to

Clause 3 - amendment proposed-

THAT, the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

Amendment of section 5B of Cap.237.

3. Section 5B of the Industrial Training Act is amended in—
(a) subsection (3) by deleting the words “month or part of a month” and substitute therefor the word “year”; and
subsection (4) by deleting the words “month or part” and substitute therefor the word “year”.

(Chairperson of the Departmental Committee on Labour and Social Welfare)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to

Clauses 4, 5, 6, 7, 8, 9 & 10 - agreed to

Clause 11 - amendment proposed-

THAT, Bill be amended in clause 11 in the proposed paragraph 24E (1) by deleting the word “ten” appearing immediately before the words “billion shillings” and substituting therefor the word “five”.

(Chairperson of the Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Further amendment proposed-

THAT, Clause 11 of the Bill be amended in the proposed amendment to the Second Schedule to the Income Tax Act, 2012 by deleting the words “ten billion” appearing in the proposed new paragraph 24E (1) and substituting therefor the words “five billion”.

(Chairperson, Departmental Committee on Transport, Public Works and Housing)

Question of the amendment proposed;

Proposed amendment withdrawn

Clause 11 - as amended agreed to

Clause 12 - amendment proposed-

THAT, the Bill be amended in clause 12 in the proposed new definition of “stamp” by inserting the words “recognized by the Government,” immediately after the words “adhesive stamp”.

(Chairperson of the Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 12 - as amended agreed to

Clauses 13, 14,15 and 16 - agreed to

Clause 17 - amendment proposed-

THAT, clause 17 of the Bill be amended in the proposed new section 23A by deleting the proposed new subsection (2).

(Chairperson, Departmental Committee on Transport, Public Works and Housing)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 17 - as amended agreed to

Clauses 18, 19, 20, 21, 22 & 23 - agreed to

Clause 24 - amendment proposed-

THAT, the Bill be amended by deleting section 24 and substituting therefor the following new section-

Amendment of section 39A of No.18 of 2012

24. Section 39A of the Public Finance Management Act, 2012 is amended –

(a) in sub-section (3) by deleting the words “in time for it to be assented to” and substituting therefor the words “in time for it to be presented for assent”; and

(b) in sub-section (4) by deleting the words “and the Division of Revenue Act” appearing in paragraph (a).

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 24 - as amended agreed to

(Clauses 25 and 26, relating to amendments to the Value Added Tax Act, 35 of 2013, we expunged pursuant to Speaker’s Ruling)

Clause 27 - amendment proposed-

THAT, the Bill be amended in clause 27 by inserting the word “Service” immediately after the word “Registration”.

(Chairperson, Departmental Committee on Trade, Industry and Co-operatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 27 - as amended agreed to

Clauses 28, 29, 30, 31, 32, 33, 34, 35 & 36 - agreed to

Clause 37 - amendment proposed-

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

Amendment of section 560A of No. 18 of 2015.

37. The Insolvency Act, 2015, is amended by deleting section 560A and substituting therefor the following new section—
Considerations 560A. (1) When considering whether to take into account on court or the administrator may in applications particular take into consideration the for approval to following where appropriate – lift moratorium.

- (i) the statutory purpose of the administration;
- (ii) the impact of the approval on the applicant particularly whether the applicant is likely to suffer significant loss;
- (iii) the legitimate interests of the applicant and the legitimate interest of the creditors of the company, giving the right of priority to the proprietary interest of the applicant;
- (iv) whether the value of the secured creditor’s claim exceeds the value of the encumbered asset;
- (v) whether the secured creditor is not receiving protection for the diminution in the value of the

- encumbered asset;
- (vi) whether the provision of protection may be feasible or overly burdensome to the estate;
- (vii) whether the encumbered asset is not needed for the reorganization or sale of the company as a going concern;
- (viii) whether relief is required to protect or preserve the value of assets such as perishable goods; or
- (ix) whether in reorganisation, a plan is not approved within six months.

(2) An approval granted under subsection (1) shall be for a period of not more than twenty-eight days.

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 37 - as amended agreed to

Clause 38 - agreed to

Clause 39 - amendment proposed-

THAT, the Bill be amended in clause 39 in the proposed new item in the description by inserting the words “(excluding imported glass bottles for packaging of pharmaceutical products).

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

Proposed amendment withdrawn by the Mover

Clause 39 - agreed to

Clauses 40 and 41 - agreed to

New Clause 12A proposed-

THAT, the Bill be amended by inserting the following new clause immediately after clause 12-

Amendment of section 119 of Cap. 480. **12A.** Section 119 of the Stamp Duty Act is amended by inserting the following paragraph immediately after paragraph (c) –

(d) electronic stamping.

Motion made and Question proposed;

THAT, the New Clause 12A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed;

THAT, the New Clause 12A be part of the Bill

Debate arising;

Question put and agreed to;

New Clause 14A proposed-

THAT, the Bill be amended by inserting the following new clause immediately after clause 14–

Amendment of section 2 of No.41 of 2011. **14A.** Section 2 of the National Construction Authority Act, 2011 is amended by inserting the following new definition in its proper alphabetical sequence–

“building code” means the building code provided for under regulations made pursuant to section 42.

Motion made and Question proposed;

THAT, the New Clause 14A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed;

THAT, the New Clause 14A be part of the Bill

Debate arising;

Question put and agreed to;

New Clause 17A proposed-

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

Amendment of section 42 of No.41 of 2011.

17A. Section 42 of the National Construction Authority Act, 2011 be amended in subsection (2) by inserting the following new paragraphs immediately after paragraph (a)–

- (aa) the Building Code in the construction industry; and
- (ab) the manner of conducting mandatory inspections by the Authority.

Motion made and Question proposed;

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

Debate arising;

Question put and agreed to;

Motion made and Question proposed;

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

Debate arising;

Question put and agreed to;

New Clause 32A proposed -

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

Amendment of section 289 of No. 17 of 2015.

32A. Section 289 of the Companies Act, 2015 is amended –

- (1) in subsection (1) by—
 - (a) deleting paragraph (b) and substituting therefor the following new paragraph immediately after paragraph (a)–

“(b) in the case of a quoted company, a new item to be put in the agenda of the general nature of business to be dealt with at the meeting.

- (b) inserting the following new paragraph immediately after paragraph (b)–

“(c) other business to be dealt with at that meeting.”

- (2) in subsection (2) by inserting the following new paragraph immediately after paragraph (b)–

“(b) in the case of subsection (1) (b), by members representing at least five percent of paid up capital of the

company.

Motion made and Question proposed;

THAT, the New Clause 32A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed;

THAT, the New Clause 32A be part of the Bill

Debate arising;

Question put and agreed to;

New Clause 39A proposed –

THAT the Bill be amended by inserting the following new clause immediately after clause 39–

Amendment of
section 8 of
No.29 of 2016.

39A. Section 8 of the Miscellaneous Fees and Levies Act, 2016 is amended in subsection (3) by inserting the words “and operation” immediately after the word “construction”.

Motion made and Question proposed;

THAT, the New Clause 39A be read a Second Time

Debate arising;

Proposed amendment withdrawn

Title - agreed to

Clause 1 - amendment proposed -

THAT, the Bill be amended in Clause 1 by inserting the words “and shall come into force upon assent” immediately after the expression “2019”

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 1 - as amended agreed to

Bill to be reported with amendments

- 12. **HOUSE RESUMED** - Fourth Chairperson in the Chair

The Business Laws (Amendment) Bill (National Assembly Bill No.80 of 2019)

Bill reported with amendments

Motion made and Question proposed –

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

(The Leader of the Majority Party)

Question deferred to another day.

- 13. **MOTION - ANNUAL REPORTS ON THE STATE OF THE JUDICIARY**

Motion made and Question proposed –

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

(Hon. William Cheptumo - Chairperson, Departmental Committee on Justice & Legal Affairs – 10.03.2020)

Debate interrupted on Tuesday, March 10, 2020 resumed;

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

- 14. **HOUSE ROSE** - at Seven o'clock.

M E M O R A N D U M

The Speaker will take the Chair on Thursday, March 12, 2019 at 2.30 p.m.

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