



(No. 027)

(347)

REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FOURTH SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

SUPPLEMENTARY

WEDNESDAY, MAY 6, 2020 AT 2.30 P.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*. PROCEDURAL MOTION - EXTENSION OF SITTING TIME

(The Leader of the Majority Party)

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House orders that should the time appointed for adjournment of the House be reached before conclusion of business appearing under **Order No. 14** on today's Order Paper, the sitting of the House shall stand extended until the conclusion of the said business.

9*. PROCEDURAL MOTION – CONSIDERATION OF CERTAIN BUSINESS RECEIVED DURING THE MAY/JUNE 2020 RECESS

(The Leader of the Majority Party)

THAT, notwithstanding the provisions of Standing Orders 41 and 42 relating to *conveying of Messages from the Senate and from the President or the National Executive* and Standing Orders 120, 122 and 126 relating to *Publication, Procedure upon Publication and First Reading of Bills*, this House orders that, during the period of the Long Recess of the First Part of the Session (May/June 2020)-

- (a) upon receipt of any Message from the Senate, or upon receipt of any name of a person nominated for appointment to a state or public office from the President or any other office in the National Executive, the Speaker shall forthwith refer such Message to the relevant Committee for consideration, without having to recall the House;

...../9*(Cont'd)

- (b) should a Bill be published during the period, or a published Bill becomes due for First Reading during the period, the Speaker shall, upon lapse of seven days following the publication of the Bill, forthwith refer such Bill to the relevant Committee for consideration pursuant to the provisions of Standing Order 127 (*Committal of Bills to Committees and public participation*) and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine;
- (c) should the Speaker receive a Message relating to the Senate’s Amendments to a Bill originating in the National Assembly, the Speaker shall forthwith refer the Schedule of the Senate Amendments to the relevant Committee for consideration pursuant to the provisions of Standing Order 145 (*Senate amendments to Bills originating in the National Assembly*), and, upon resumption of the House, report such fact to the House; and,
- (d) should the Speaker receive a Message from the Senate in respect of any Special Bill concerning County Governments, or a Division of Revenue (Amendment) Bill, the Speaker shall forthwith refer such Bill and the accompanying Message to the relevant Committee for consideration pursuant to the provisions of Standing Order 143(3) (*Consideration of Bills originating in the Senate*), and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine.

10*. MOTION - AMENDMENTS TO THE STANDING ORDERS TO FACILITATE VIRTUAL SITTINGS OF THE HOUSE

(The Vice-Chairperson, Procedure and House Rules Committee)

THAT, this House **adopts** the Fourth Report of the Procedure & House Rules Committee on *Amendments to the Standing Orders to Facilitate Virtual Sittings of the House and its Committees, laid on the Table of the House on Wednesday, May 6, 2020*, and pursuant to provisions of Article 124(1) of the Constitution and Standing Order 265-

- (i) resolves to amend its Standing Orders as contained in the Schedule to the Report; and,
- (ii) orders that the amendments to the Standing Orders as contained in the Schedule to the Report shall come into effect on Monday, 18th May, 2020.

(The amendments are appended as Notice IV)

11*. MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE EQUALISATION FUND BILL (NATIONAL ASSEMBLY BILL NO. 43 OF 2019)

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

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Equalisation Fund Bill (National Assembly Bill No. 43 of 2019), **subject to re-committal of clause 7.**

(Question to be put)

12*. COMMITTEE OF THE WHOLE HOUSE

(i) The Public Finance Management (Amendment) Bill (National Assembly Bill No. 2 of 2020)

(The Leader of the Majority Party)

(ii) The Equalisation Fund Bill (National Assembly Bill No. 43 of 2019)

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

(Subject to re-committal of clause 7)

(iii) The Tea Bill (Senate Bill No. 36 of 2018)

(The Chairperson, Departmental Committee on Agriculture & Livestock)

(Subject to Standing Order 131)

13*. MOTION – OTHER MEASURES TO ADDRESS THE EFFECTS OF THE COVID-19 PANDEMIC

(The Leader of the Majority Party)

THAT, AWARE THAT, the World Health Organization (WHO) declared the Corona Virus Disease 2019 (*COVID-19*) a global health pandemic and that the pandemic has led to an unprecedented global health crisis;

COGNIZANT THAT the Government, non-governmental institutions, well-wishers and health authorities globally have joined hands and put in place a number of measures to contain the pandemic, mainly through travel and behavioral restrictions, provision of necessary protective facilities, equipping existing health facilities, availing resources; and providing necessary assistance and information;

APPRECIATING the policy measures and interventions being undertaken by the Government, through the multi-agency National Emergency Response Committee on Corona Virus (NERC) led by the Ministry of Health, to contain the spread of the pandemic and cushion Kenyans against its social and economic effects;

FURTHER COGNIZANT of the legislative measures proposed by the Executive, including the establishment of the *COVID-19 Fund*, the reduction of the Value Added Tax, amongst others;

...../13*(Cont'd)

FURTHER APPRECIATING the role of National Assembly in taking necessary legislative interventions and offering the necessary political and legislative support, whenever required;

CONCERNED THAT, COVID-19 Pandemic has disrupted the Country's economy and that economic development outcomes are expected to be seriously affected by the interruption caused by the virus both globally and locally;

DEEPLY CONCERNED THAT, the Government faces significant fiscal challenges as the national economy faces contraction because of the effects of COVID-19 Pandemic, a situation made worse by the depreciation of the shilling, and the Government may in the current financial year not be able to meet its loan obligations;

NOW THEREFORE, THIS HOUSE RESOLVES—

- (a) to laud and appreciate the Government of the Republic of Kenya for the action and policy measures undertaken so far in combating the spread of the virus, and addressing the economic effects of the virus in the country to cushion ordinary Kenyans from its effects;
- (b) to commend and appreciate all **healthcare workers and service providers** in the country for their selfless efforts, commitment to service, care and compassion towards persons who have been infected and/or affected by the virus;
- (c) to urgently put in place modalities of facilitating the continuity of the business of the House remotely using modern technology whilst upholding the constitutional requirements on Public access and participation, Quorum, and Voting in Parliament; and,
- (d) *that, the Government considers waiving charges payable by persons who are under mandatory quarantine, excluding those isolated due to violation of social distancing and curfew requirements;*
- (e) *that, the Government of Kenya should urgently engage multilateral and bilateral lenders with a view to renegotiate loan obligations, with emphasis on waivers of interest and extensions on the repayment period, as well asking for total waivers on some of the loans so as to free up money to enable the Government to contain the spread of the pandemic, cushion Kenyans against its social and economic effects, and address economic impact of the pandemic;*

- (f) that, to supplement the *Covid-19* Fund and other measures put in place, the Budget & Appropriation Committee reviews the proposed Annual Estimates for the FY 2020/2021 with a view to allocating funds towards cushioning the country further from the short-term and long-term effects of *Covid-19*, particularly allocating and ring-fencing funds for –
- (i) the provision of personal protective equipment (PPE), testing and medical equipment, including adequate ventilators;
 - (ii) *the establishment of suitable health facilities for the treatment and management of infectious and viral diseases such the Covid-19; and,*
 - (iii) *the establishment of suitable health facilities for the treatment and management of infectious and viral diseases such as COVID-19.*

(Motion as amended)
(Balance of time – 20 minutes)

14*. MOTION – ESTABLISHMENT OF AN AD-HOC COMMITTEE ON COVID-19 PREVENTION, RESPONSE AND MANAGEMENT

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

THAT, aware that the Coronavirus Pandemic (COVID-19) was declared by the World Health Organization (WHO) to be a Public Health Emergency of International concern;

DEEPLY CONCERNED on the serious threat posed to the health and social-economic lives of Kenyans by the continued the spread of the Pandemic;

APPRECIATING that both the National and County Governments have put in place some targeted interventions to respond and manage the COVID-19 pandemic through among others, enhanced medical and public health actions, mitigating social-economic shocks arising from the impact of the pandemic, creation of a National Emergency Response Fund to foster the national response to the pandemic, and formation of a National Emergency Response Committee on Coronavirus which is tasked with among other things, to coordinate Kenya’s preparedness, prevention and response to the threat of COVID-19, and develop mitigation strategies with regard to the disease;

COGNIZANT THAT some of the policy measures and targeted interventions put in place by the Government are yet to be anchored in legislation and/or approved by Parliament;

NOW THEREFORE; this House resolves as follows –

- (i) to acknowledge and appreciate individuals and corporate entities, development partners and multinational institutions for local and international technical, financial and human assistance efforts and support in response to the pandemic;
- (ii) to establish an *ad-hoc* Committee to be known as the ***Select Committee on the COVID-19 Prevention, Response and Management***, whose mandate will be as follows-
 - (a) develop necessary legislative measures on COVID-19 prevention, response and management through which the Government would **anchor** the mechanisms to prevent, combat and respond to the pandemic, and to any other pandemics in the future, including but not limited to, ensuring enhanced medical and public health actions and facilities, strategies for cushioning the country from the effects of such pandemic on the social support system, economic stimulus for the Micro, Small and Medium Enterprises, and national public order measures for the maintenance of specific and competent functions during and after such pandemic;
 - (b) coordinate closely with the *National Emergency Response Committee on COVID-19* which is tasked with among other things, coordinating the country's preparedness, prevention and response in the actions and measures taken to ensure that the *Committee* delivers on its mandate more effectively; and
 - (c) consider funding needs and requirements on *COVID-19* prevention, combat, response and management; and,
 - (d) report and make recommendations on the item under paragraphs (a), and (c) and any other related matters within thirty (30) days, and make weekly progress reports on item (b) to the House, until the end of the pandemic.
- (iii) that the Membership of the Committee be as follows-
 - 1) The Hon. M. D. Ngunjiri Wambugu, M.P.
 - 2) The Hon. (Dr.) Amos Kimunya, EGH, M.P.
 - 3) The Hon. (Dr.) Makali Mulu, M.P.
 - 4) The Hon. Yusuf Hassan, M.P.
 - 5) The Hon. Alice Wahome, M.P.
 - 6) The Hon. Florence Mutua, M.P.
 - 7) The Hon. Peris Tobiko, M.P.
 - 8) The Hon. Peter Kaluma, M.P.

- 9) The Hon. Mishi Khamisi, M.P.
- 10) The Hon. Beatrice Nyaga, M.P.
- 11) The Hon. Janet Ongeru, M.P.
- 12) The Hon. (Dr.) Otiende Amollo, M.P.
- 13) The Hon. Gathoni Wamuchomba, M.P.
- 14) The Hon. Godfrey Osotsi, M.P.
- 15) The Hon. Didmus Barasa, M.P.
- 16) The Hon. Joshua Kandie, M.P.
- 17) The Hon. (Dr.) Daniel Kamuren Tuitoek, M.P.
- 18) The Hon. Patrick Munene, M.P.
- 19) The Hon. Anthony Oluoch, M.P.
- 20) The Hon. John Kiarie, M.P.
- 21) The Hon. Abdi Omar Shurie, M.P.
- 22) The Hon. Major (Rtd) Bashir Abdullaih, M.P.
- 23) The Hon. Teddy Mwambire, M.P.

*** Denotes Orders of the Day**

...../Notices

NOTICES

I. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2020)

Notice is given that the Chairperson of the Departmental Committee on Finance and National Planning intends to move the following amendment to the Public Finance Management (Amendment) Bill, 2020 at the Committee Stage—

CLAUSE 3

THAT, the Bill be amended by deleting clause 3.

II. THE EQUALISATION FUND BILL (NATIONAL ASSEMBLY BILLNO. 43 OF 2019)

- 1) Notice is given that the Chairperson of the Departmental Committee on Finance and National Planning intends to move the following amendments to the Equalisation Fund Bill, 2019 at the Committee Stage—

CLAUSE 6

THAT, clause 6 of the Bill be amended in sub clause (2) –

- (a) by deleting the word “charging” appearing immediately after the word “holding,” under paragraph (b);
- (b) by deleting paragraph (c).

CLAUSE 7

THAT, the Bill be amended in clause 7 –

- (a) by deleting subsection (1) and substituting therefore the following new subsection-
 - (1) The Board shall comprise of-
 - (a) a chairperson, who shall be appointed by the President with the approval of the National Assembly;

- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to water or a person designated in writing by the Principal Secretary;
- (c) the Principal Secretary for the time being responsible for matters relating to roads or a person designated in writing by the Principal Secretary;
- (d) the Principal Secretary for the time being responsible for matters relating to health or a person designated in writing by the Principal Secretary;
- (e) the Principal Secretary for the time being responsible for matters relating to the national Treasury or a person designated in writing by the Principal Secretary;
- (f) the Principal Secretary in the Ministry for the time being responsible for Arid and Semi-Arid Lands or a person designated in writing by the Principal Secretary;
- (g) four persons appointed by the Cabinet Secretary; and
- (h) the Chief Executive Officer, who shall be an ex-officio member and secretary to the Board.

(b) by inserting the following new subsection immediately after sub-section (1)-

(1a) Where there is a tie in the voting of the Board the chairperson shall have a casting vote.

CLAUSE 8

THAT, clause 8 of the Bill be amended in paragraph (c) by —

- (a) inserting the following new sub-paragraph immediately after sub-paragraph (iv)—
“(v) engineering;”
- (b) renumbering the existing sub-paragraph (v) as (vi).

CLAUSE 9

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

“9. The Chairperson and members of the Board shall hold office for a term of three years and shall be eligible for reappointment for one further and final term of three years.”

CLAUSE 10

THAT, clause 10 of the Bill be amended by inserting the words “and approve” immediately after the word “consider” under paragraph (b).

CLAUSE 16

THAT, the Bill be amended in clause 16 by deleting sub clause (2) and substituting therefor the following new sub clause—

“(2) The Chief Executive Officer shall hold office for a term of three years and shall be eligible for re-appointment for one further and final term of three years.”

CLAUSE 20

THAT, clause 20 of the Bill be amended —

- (a) in sub clause (1) by deleting the word “ward” and substituting therefor the word “Constituency”;
- (b) in sub clause (2) by deleting paragraph (g); and
- (c) by deleting the word “three” and substituting therefor the word “two” appearing immediately after the words “shall be” under sub clause (7);

CLAUSE 21

THAT, clause 21 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub clause—

- (1) A person may present a petition to the Board for the dissolution of a Local Committee setting out the alleged facts constituting one or more of the following grounds for dissolution—
 - (a) serious violation of the Constitution or any other law including a contravention of Chapter Six;
 - (b) gross misconduct, whether in performance of the members’ or office holders’ functions or otherwise;
 - (c) incompetence; or
 - (d) any other cause as may be deemed justifiable.

CLAUSE 22

THAT, clause 22 of the Bill be amended by inserting the words “with the approval of the Board” immediately after the word “staff”.

CLAUSE 23

THAT, clause 23 of the Bill be amended in sub clause (2) by deleting the word “Ward” and substituting therefor the word “Constituency”

CLAUSE 26

THAT, Clause 26 of the Bill be amended -

- (a) in paragraph (a) by deleting word “and”;
- (b) in paragraph (b) by inserting the word “and” at the end;
- (c) inserting the following new paragraph immediately after paragraph (b)-

“(c) status of implementation of projects.”

CLAUSE 28

THAT, clause 28 of the Bill be amended by inserting the word “Asset” immediately after the word “and”.

CLAUSE 31

THAT, clause 31 of the Bill be amended by inserting the following new sub clauses immediately after sub clause (4)–

“(5)The Board shall set aside a sum not exceeding five per centum of the total allocation for the Fund to cater for the administration expenses of the Board.

(6) The Board shall ensure that a sum not exceeding five per centum of the total allocation for a project shall be utilised for the administration expenses of the project.”

CLAUSE 32

THAT, clause 32 of the Bill be amended by deleting the words “At least four months before” and substituting therefor the words “Within the period of three months after”

CLAUSE 35

THAT, clause 35 of the Bill be amended in sub-clause (3) by deleting the words “line ministries” and substituting therefor the words “Local Committees” appearing immediately after the words “accounts of”.

SCHEDULE

THAT THE SCHEDULE to the Bill be amended in paragraph (1) by deleting the word “consensus” and substituting therefor the words “voting through simple majority” appearing immediately after the words “reached by” in sub paragraph (4).

- 2) Notice is given that the Member for Tiaty (Hon. Kassait Kamket) intends to move the following amendments to the Equalisation Fund Bill, 2019 at the Committee Stage—

CLAUSE 7

THAT, Clause 7(1) of the Bill be amended—

- (a) in paragraph (b) by inserting the words “or a representative designated in writing” immediately after the word “water”;
- (b) in paragraph (c) by inserting the words “or a representative designated in writing” immediately after the word “roads”;
- (c) in paragraph (d) by inserting the words “or a representative designated in writing” immediately after the word “health”;
- (d) in paragraph (e) by inserting the words “or a representative designated in writing” immediately after the word “Treasury”;

CLAUSE 39

THAT, Clause 39 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Cabinet Secretary” appearing immediately after the word “The” and substituting therefor the word “Board”;
- (b) in sub-clause (2) by deleting the words “Cabinet Secretary” appearing immediately after the expression “sub-clause (1), the” and substituting therefor the word “Board”;
- (c) in sub-clause (3) (a) by deleting the words “Cabinet Secretary” appearing immediately after the words “is to enable the” and substituting therefor the word “Board”;
- (d) in sub-clause (3) (b) by deleting the words “Cabinet Secretary” appearing immediately after the words “authority of the” and substituting therefor the word “Board”.

III. THE TEA BILL (SENATE BILL NO. 36 OF 2018)

- 1) Notice is given that the Chairperson of the Departmental Committee on Agriculture and Livestock intends to move the following amendments to the Tea Bill (Senate Bill No. 36 of 2018) at the Committee Stage—

CLAUSE 2

THAT, Clause 2 of the Bill be amended by—

- (a) deleting the definition “managing factory”;

(b) deleting the definition “broker” and substituting therefor the following new definition—

“broker” means a person who negotiates the purchase or sale of tea between tea growers and processors and buyers;”

CLAUSE 5

THAT, Clause 5 of the Bill be amended in sub-clause (2)—

(a) in paragraph (b) by deleting subparagraphs (iii), (iv) and (v);

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

“(ba) license tea dealers and processors;
(bb) license processors and their agents;
(bc) license tea brokers.”

(c) by deleting paragraph (e) and substituting therefor the following new paragraphs—

“(e) carry out market research and analysis and disseminating information on its findings to all stakeholders;
(f) promote Kenyan tea and facilitate access to new markets;
(g) advise the national government on levies, fees and import or export duties on tea;
(h) advise the county governments on agricultural cess and fees;
(i) oversee the efficient utilization of available Board’s funds; and
(j) carry out such other functions as may be assigned to it by this Act, and any written law while respecting the roles of the two levels of governments.”

CLAUSE 7

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

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

“(c) the Principal Secretary responsible for National Treasury or a representative nominated by the Principal Secretary in writing;”

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

“(d) two persons of either gender with knowledge and experience in the tea sector nominated by the Council of County Governors;”

CLAUSE 9

THAT, Clause 9 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)—

“(ab) contravenes the provisions of Chapter six of the Constitution;”

CLAUSE 13

THAT, Clause 13 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) A person is not qualified for appointment under subsection (1) unless the person—

- (a) holds a Bachelor’s degree in agriculture;
- (b) holds a Master’s degree in agriculture, business management or finance; and
- (c) has at least five years experience in a position of management.”

CLAUSE 14

THAT, Clause 14 of the Bill should be amended by inserting the following new paragraph immediately after paragraph (a)—

“(ab) contravenes the provisions of Chapter six of the Constitution;”

CLAUSE 15

THAT, Clause 15 of the Bill be amended in sub-clause (4) (e) by deleting the words “the annual returns and any other” appearing immediately after the words “ensure that the”.

CLAUSE 20

THAT, Clause 20 of the Bill be amended in sub-clause (1) (c) by inserting the words “within the county” immediately after the word “markets”.

CLAUSE 21

THAT, Clause 21 of the Bill be amended in sub-clause (1) by inserting the words “where tea growers deliver green leaf or purple leaf” at the end of the sub-clause.

CLAUSE 23

THAT, Clause 23 of the Bill be amended by deleting the word “shall” appearing immediately after the words “by the Board, and” and substituting therefor the word “may”.

CLAUSE 25

THAT, Clause 25 of the Bill be amended by—

- (a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

- (b) renumbering the existing paragraphs (a), (b), (c), (d) as (b), (c), (d), (e).

CLAUSE 27

THAT, Clause 27 of the Bill be amended in clause (1) (a) by deleting the words “balance sheet” and substituting therefor the word “statement”.

CLAUSE 28

THAT, Clause 28 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “balance sheet” appearing immediately after the words “and the annual” and substituting therefor the word “statement”;
- (b) in sub-clause (2) by deleting the words “balance sheet” appearing immediately after the words “publish the report,” and substituting therefor the word “statement”;
- (c) in sub-clause (3) by deleting the words “balance sheet” appearing immediately after the words “submit to Parliament the reports,”.

CLAUSE 30

THAT, Clause 30 of the Bill should be amended by—

- (i) deleting sub-clause (1);
- (ii) deleting the expression “(2)” appearing immediately before sub-clause (2);

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 31—

Offences
penalties.

and **31A.** A person who—

- (a) without lawful excuse ignores or fails to obey any instruction issued by a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act;
- (b) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act,

commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years, or to both.

CLAUSE 32

THAT, Clause 32 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A person who commits an offence under this Act for which no penalty is provided shall be liable, on conviction, to—

- (a) a fine not exceeding five hundred thousand shillings;
- (b) twice the value of the tea or tea products; or
- (c) imprisonment for a term not exceeding one year, or to both.”

CLAUSE 33

THAT, Clause 33 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (c)—

- “(ca) tea safety including transportation, processing and market standards of tea;
- (cb) submission of returns and reports by the holders of licences and registrations under this Act;

(cc) regulation and controlling the method of blending, packaging and labelling of tea for purposes of traceability;
(cd) regulations for licensing and registration of tea brokers;
(ce) standards, and the manner of grading and classification of made tea products under this Act;”

- 2) **Notice is given that the Member for Kabondo Kasipul (Hon. Eve Obara) intends to move the following amendment to the Tea Bill (Senate Bill No. 36 of 2018) at the Committee Stage—**

CLAUSE 32

THAT, Clause 32 of the Bill be amended in sub-clause (1) by deleting the words “not less than twenty thousand shillings” appearing immediately after the words “on conviction, to a fine of” and substituting therefor the words “not exceeding five hundred thousand shillings”.

- 3) **Notice is given that Member for Bomet Central (Hon. Ronald Tonui) intends to move the following amendments to the Tea Bill (Senate Bill No. 36 of 2018) at the Committee Stage—**

CLAUSE 5

THAT, Clause 5 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (c)—

- “(d) facilitate access to international markets;
(e) promote and monitor tea trade in Kenya;
(f) facilitate the development of skills and adoption of appropriate value addition technologies for tea and tea products before domestic use and export from Kenya;”

CLAUSE 7

THAT, Clause 7 of the Bill be amended in sub-clause (1) (d) by inserting the words “from the East and West of tea growing areas” immediately after the words “either gender”.

CLAUSE 20

THAT, Clause 20 of the Bill be amended—

- (a) in sub-clause (1) by inserting the following new paragraph immediately after paragraph (d)—

- (b) in sub-clause (2) by inserting the words “including construction of processors within counties” at the end of the sub-clause.

CLAUSE 25

THAT, Clause 25 of the Bill be amended by—

- (a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

- (b) renumbering the existing paragraphs (a), (b), (c), (d) as (b), (c), (d), (e).

NEW CLAUSES

THAT, Clause 29 of the Bill be amended by inserting the following new clauses immediately after clause 29—

Accounts and audit of tea factories.

29A. (1) A county government may cause to be prepared an internal audit report of a processor situated within its jurisdiction.

(2) The internal audit report referred to in subsection (1) shall be tabled in the county assembly within which a processor is situated.

Investment of funds.

29B. The Board shall monitor the investment of any funds of tea growers, managing factories and processors.

CLAUSE 33

THAT, Clause 33 of the Bill be amended by deleting sub-clause 2(d).

- 4) **Notice is given that Member for Nyaribari Masaba (Hon. Ezekiel Machogu) intends to move the following amendments to the Tea Bill (Senate Bill No. 36 of 2018) at the Committee Stage—**

CLAUSE 21

THAT, clause 21 of the Bill be amended in sub-clause (1) by inserting the words “with at least five acres of tea under cultivation” immediately after the words “tea grower”.

THAT, the Bill be amended by inserting the following new clause immediately after clause 24—

Payment of tea growers.

- 24A.** (1) A processor shall pay a tea grower—
- (a) fifty per cent of the tea grower's selling price within fifteen days of the auction sale and direct sale;
 - (b) the balance within thirty days of sale.
- (2) Despite subsection (1), a tea grower may agree with the processor to be paid—
- (a) in instalments every four months until the full payment is made;
 - (b) at the end of the year but this payment shall be paid together with accrued interest.

- 5) **Notice is given that the Nominated Member (Hon. Cecily Mbarire) intends to move the following amendments to Tea Bill (Senate Bill No. 36 of 2018) at the Committee Stage—**

CLAUSE 2

THAT, clause 2 of the Bill be amended by—

- (a) deleting the definition of “managing factory”;
- (b) inserting the following new definitions in proper alphabetical sequence—

“auction” means a physical or electronic system where potential buyers place competitive bids for tea;

“auction organizer” means a person, company or firm established for the purpose of organizing tea auctions in Kenya and licensed by the Board;

“broker” means a person or company or firm established for the purpose of negotiating the purchase or sale of tea between producers and buyers;

“blending” means the process of mixing of teas of different grades to affect the flavour and characteristics of the tea for the purposes of packing and for sale;

“commercial tea nursery” means a person or firm who maintains not less than five hundred tea seedlings or planting material for sale;

“commercial green leaf transporter” means a person, a firm or a corporate body contracted by a tea factory to provide green leaf transport services from the farm or leaf collection center to the tea factory at a fee;

“cottage tea factory” means a tea factory that manufactures less than three hundred thousand kilograms of high value specialty or value added teas;

“Foundation” means the Tea Research Foundation established under section 25C;”

“Fund” means the Tea Development Fund;

“levy” means a per centum of the value of all made tea imposed by the Cabinet Secretary at the point of export or import in accordance with section 25A;

“made tea” means the derivative from green tea leaf through a manufacturing process;

“management agent” means any person that is registered and licensed to enter into a contract with a tea factory to perform or offer professional services in production, processing, and related financial services a tea factory on behalf of the tea factory at a fee;

“marketing agent” means any person that is registered and licensed to enter into a contract with a tea factory to perform or offer professional services in sales, value addition, product development and related marketing services on behalf of the tea factory at a fee;

“value addition” means improvements on made tea through packaging, blending, flavoring, tea extracts, tea aroma and branding;

“green leaf agreement” means an agreement between a tea grower and a tea factory relating to the delivery of green leaf;

“tea factory” means a factory registered and licensed to process green tea leaf into made tea;

“tea zone” means a zone set out in the First Schedule within which tea is grown;

CLAUSE 5

THAT, clause 5(2) of the Bill be amended—

(a) in paragraph (b) by—

(i) by deleting subparagraph (iv) and substituting therefor the following new subparagraph—

“(iv) licence managing agents and marketing agents”;

(ii) by inserting the following new sub paragraphs immediately after subparagraph (iv)—

“(iva) license and regulate physical and electronic tea auctions”;

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

(ba) prescribe rules for the eligibility of persons to vie for election or be appointed as board members of persons licensed under this Act;

(bb) recommend to the national and county governments appropriate measures for the grant of extension services and farm input subsidies to tea growers;

(bc) promote value addition in the tea industry and the establishment of cottage tea factories and the blending of tea;

CLAUSE 7

THAT, clause 7 of the Bill be amended—

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

“(e) two persons, one man and one woman, appointed from either of the counties in the east tea zone to represent tea growers from the zone;

(ea) two persons, one man and one woman, appointed from either of the counties in the west tea zone to represent tea growers from the zone;”;

(b) in sub-clause (2) by inserting the expression “(ea)” immediately after the expression “(e)”.

CLAUSE 19

THAT, clause 19 of the Bill be amended by inserting the word “First” immediately after the words “with the”;

CLAUSE 22

THAT, clause 22 be amended by deleting sub-clause (1) and substituting therefor the following new sub-clauses—

“(1) A person intending to—

(a) export, import, market or process tea;

(b) transact as a managing or a marketing agent; or

(c) establish a tea factory,

shall apply, in writing, for a license to the Board.

(1A) The Board shall consider the professional and moral suitability of a person applying for a license and satisfy itself that such a person is a fit and proper person for the grant of the license.

(1B) For the purposes of this section, the criteria for assessing the professional or moral suitability of a person applying for a license shall be as prescribed in the Third Schedule.

(1C) In considering an application for a license, the Board may require to be satisfied as to—

- (a) the financial condition and history of the applicant;
- (b) the integrity of its management;
- (c) the professional and moral suitability of the persons proposed to manage or control applicant;
- (d) the adequacy of the capital structure of the applicant; and
- (e) the public interest which will be served by the granting of the licence.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 22—

Restrictions and
conditions on
licences.

22A. (1) A person licensed as a management agent or marketing agent shall not—

- (a) during the period of such licence participate in the control, management or oversight of a tea factory either—
 - (i) as a director; or
 - (ii) by seconding or attaching its officers as officers of the factory; or
- (b) be eligible for the grant of a license as an auction organizer or a broker.

(2) A person licensed as a tea factory shall not, during the period of such licence retain in its board of directors or management—

- (a) a person licensed as a management agent or a marketing agent; or
- (b) a person employed by a management agent or a marketing agent.

(3) In granting a licence under this Act, the Board shall ensure that persons elected to direct the affairs of a licensee—

- (a) represent a cross-section of the licensee's shareholders or members;
- (b) are democratically elected by the licensee's shareholders or members with each shareholder or member being entitled to a single vote; and
- (c) meet the prescribed suitability requirements under the Act.

NEW CLAUSES

THAT, the Bill be amended by inserting the following new clauses immediately after clause 25—

25A. (1) The Cabinet Secretary may, with the approval of Parliament, by an Order in the *Gazette*, impose a levy on the import and export of tea to be known as the Tea Development Levy.

(2) The levy shall be payable at such rate as may be specified in the Order.

(3) An Order under this section may contain provisions as to the time at which any amount payable by way of the levy shall become due.

(4) All moneys received in respect of the levy shall be paid to the Board and if not paid on or before the date prescribed by the order, the amount due and any sum payable under subsection (5) shall be a civil debt recoverable summarily by the Board.

(5) If a person fails to pay any amount payable by him by way of the levy on or before the date prescribed by the order, a sum equal to five per centum of the amount shall be added to the amount due for each month or part thereof during which the amount due remains unpaid.

25B. (1) There is established a Fund to be known as the Tea Development Fund which shall be administered by the Board.

(2) The Fund shall consist of—

- (a) the Tea Development Levy;
- (b) any funds provided by bilateral or multilateral donors for the purposes of the Fund;
- (c) any moneys provided by the National Assembly for the purposes of the Fund;
- (d) any moneys provided by a county assembly for the purposes of the Fund; and
- (e) moneys from any other source approved by the Board.

(3) The Board shall use the Fund for—

- (a) advertising the good quality of Kenya tea and increasing its sale to expand existing markets and entering new markets and matters incidental thereto;
- (b) promotion of exhibitions and trade fairs for the display of the Kenya tea in the domestic and international markets;
- (c) collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption;
- (d) regulation and compliance activities;
- (e) promotion and funding of tea research by the Foundation after identification of research priorities and programs;

- (f) promotion of product diversification and value addition;
- (g) expenses and other charges incurred by the Board or for which the Board may become liable in the course of its operations;
- (h) maintenance of the buildings and grounds of the Board;
- (i) assisting and supporting the tea Industry in such manner as the Board may deem fit;
- (j) sensitizing and incentivizing the youth and women to engage in the tea growing; and
- (k) any other use as may be approved by the Board from time to time, including investment of funds which may from time to time be standing to its credit and which are not required immediately for any of the specified purposes.

Establishment of the Tea Research Foundation.

25C. (1) There is hereby established a body to be known as the Tea Research Foundation.

(2) The Foundation is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

Functions of the Foundation.

25D. (1) The Foundation shall—

- (a) promote, co-ordinate and regulate research in tea and tea diseases; and
- (b) expedite equitable access to research information, resources and technology and promote the application of research findings and technology in the growing of tea.

(2) For the purpose of carrying out its functions the Foundation shall—

- (a) formulate policy and make policy recommendations to the Cabinet Secretary on tea research;
- (b) prioritise areas for, and co-ordinate, tea research in Kenya in line with the national policy on tea;

- (c) determine and advise the Government on the resource requirements for tea research in Kenya both at the national and county level;
- (d) regulate, monitor and ensure that all tea research undertaken by other institutions or persons undertaking tea research is consistent with the national priorities specified in the relevant policy documents;
- (e) formulate or approve medium and long term research plans, strategies and budgets of the Foundation;
- (f) provide grants to institutions or persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Foundation;
- (g) support and promote the training and capacity building in relation to agricultural research;
- (h) promote the dissemination and application of research findings;
- (i) liaise with and ensure the co-ordination of institutions, agencies and persons involved in tea research;
- (j) establish platforms for the purposes sharing of research information, advancing research and transfer of technology and dissemination of information relating to advancements made in tea research;
- (k) conduct training in industry best practice and value-addition;
- (l) ensure continuance of performance improvement in the field of tea research; and
- (m) perform such other functions as may be conferred on it by this Act or any other written law.

NEW PART

THAT, the Bill be amended by inserting the following new Part immediately after clause 29—

**PART IVA—COMPLAINTS AND
INVESTIGATION PROCEDURE**

Complaint and investigation against a licensee.

29A. (1) A person who is aggrieved by or is likely to be aggrieved by the contravention of any provision of this Act by a licensee may file a complaint requesting the Board to enforce the provisions of this Act against that licensee.

- (2) The complainant shall, in the complaint,—
 - (a) cite the specific provisions of this Act that the licensee has contravened or is likely to contravene;
 - (b) state the facts relating to the alleged contravention or likely contravention; and
 - (c) attach any documents relevant to the complaint.
- (3) The Board shall provide a written response to the complainant within fifteen days of receipt of a complaint.
- (4) The Board may by written notification to the complainant, extend the review of the complaint by up to thirty days where it determines that a complaint raises—
 - (a) a novel issue whose disposition requires the Board to consider an issue that it has not previously addressed; or
 - (b) a complex issue whose disposition requires the Board to obtain significant factual information to resolve a difficult legal, factual or policy issue.
- (5) The Board may dismiss a complaint if—
 - (a) the complainant fails to show that it has been injured, or is likely to be injured as a direct result of the alleged contravention of the provisions of this Act as cited in the complaint;
 - (b) the factual allegations in the complaint are unsupported or are without merit;
 - (c) the factual allegations in the complaint, even if proven to be true, do not constitute a contravention of this Act or the regulations made thereunder; or
 - (d) it concludes that the exercise of its enforcement discretion would not be appropriate.
- (6) Where the Board dismisses a complaint, it shall notify the complainant and provide a written explanation.
- (7) Where the Board admits a complaint, it shall issue a written notification to the licensee complained of and the complainant indicating—
 - (a) the specific provisions of this Act that the licensee has been alleged to contravene; and
 - (b) reasonable details of the alleged facts constituting the contravention.
- (8) A licensee that is the subject of a complaint shall, within fifteen days of receipt of the notification from the Board, submit a response providing the basis on which it disputes the allegations of contravention.
- (9) The Board shall, subject to section 25G on confidentiality, provide copies of all documents filed by each party to the other party.

(10) The Board may—

- (a) allow the filing of additional responses by the parties;
- (b) upon application and for good reasons, extend time for the filing of any documents or replies by the parties to the complaint;
- (c) request the complainant or the licensee complained of to submit additional information at any time during the course of the enforcement proceedings; or
- (d) direct an independent audit or appropriate investigation of the operations and books of account of a licensee to obtain information relevant to the complaint.

Withdrawal of complaint.

29B. (1) A complainant may, at any time and with reasons, withdraw its complaint in writing addressed to the Board and the licensee complained of.

(2) The withdrawal of a complaint shall not preclude the Board from taking enforcement action on its own motion in the public interest.

Decision on a complaint.

29C. (1) The Board shall issue its decision on a complaint within sixty days of receiving all necessary information.

(2) Where necessary, the Board may, by written notice to the parties and before the expiry of the sixty day review period, extend the time and specify the date by which it shall issue its decision.

Enforcement action.

29D. (1) Where the Board intends to commence an enforcement action against a licensee on its own motion, the Board shall—

- (a) notify the licensee and clearly indicate the specific provisions of this Act the licensee is alleged to have contravened;
- (b) allow the licensee at least fifteen days to respond in writing with a clear statement, supported by documents, affidavits, or other relevant materials, providing the basis on which the licensee disputes the allegation; and
- (c) issue its decision within sixty days of receiving all necessary information.

(2) Where necessary, the Board may, by written notice to the licensee and before the expiry of the sixty day review period, extend the time and specify the date by which it shall issue its decision.

Interim directive.

29E. (1) At any time during an enforcement proceeding, the Board may issue an interim directive to a licensee to cease and desist from any specified conduct.

(2) In determining whether to issue an interim directive the Board shall consider whether—

- (a) there is prima facie evidence that the licensee has contravened the provision of this Act;
- (b) continuation of the licensee's conduct is likely to cause serious harm to other licensees, consumers or the general public;
- (c) the potential harm of allowing the licensee to continue its conduct outweighs the burden on the licensee of ceasing the conduct; and
- (d) issuance of the interim directive is in the public interest.

Enforcement
measures.

29F. (1) Where the Board determines that a licensee has contravened any provision of this Act, the Board may take such enforcement measures as it considers appropriate, including—

- (a) issuing a written warning to the licensee;
- (b) directing the licensee to cease engaging in conduct that is, or if continued will constitute, a contravention of any provision of this Act;
- (c) directing the licensee to take specific remedial action;
- (d) declaring any agreement or contract void;
- (e) imposing a financial penalty relative to the period that the breach persists; or
- (f) suspension or cancellation of the licence issued under this Act.

(2) A person aggrieved by the decision of the Board under this section may appeal to the High Court.

Confidentiality.

29G. (1) A party submitting information to the Board may request that the information submitted be treated as confidential.

(2) The Board shall grant a request for confidential treatment if the requesting party demonstrates, with reasonable specificity, that the information for which it requests confidential treatment contains commercially sensitive information or that the disclosure of the information would have a material adverse impact.

(3) For the purposes of this section, “commercially sensitive information” includes information—

- (a) that is not otherwise available to the public; or
- (b) whose disclosure would cause commercial harm to the party or otherwise provide a commercial benefit to the party's competitors, including business procedures, practices, plans or its assessment of market conditions.

CLAUSE 33

THAT, clause 33(2) of the Bill be amended by deleting paragraph (e) and substituting therefor the following new paragraphs—

- “(e) standard minimum provisions to be included in green leaf agreements and other contracts entered into between licensees; and
- (f) the maximum number of tea factories that may enter into a contract with one management agent.

CLAUSE 34

THAT, clause 34 of the Bill be amended—

- (a) by renumbering the existing provision as sub-clause (1);
- (b) inserting the following new sub-clause immediately after sub-clause (1)—

“(2) The Crops Act, 2013 is amended in Part I of the First Schedule by deleting the expression “Tea.....*Camellia* spp.””

CLAUSE 35

THAT, the Bill be amended by deleting Clause 35 and substituting therefor the following new clause—

Transfer of assets and liabilities. **35.** All property, except such property as the Cabinet Secretary may specify in writing, which, immediately before the commencement of this Act, was vested in the Government for the use of the Tea Directorate of the Agriculture and Food Authority and the Tea Research Institute of the Kenya Agricultural and Livestock Research Organization, shall, on the date of commencement of this Act, vest in the Board and the Foundation, respectively, subject to all interests, liabilities, charges, obligations and trusts affecting that property.

CLAUSE 36

THAT, the Bill be amended by deleting Clause 36 and substituting therefor the following new clause—

Pending proceedings and claims. **36.** All legal proceedings and claims pending in respect of actions and activities to which this Act apply shall be continued or enforced by or against the Board and the Foundation in the same manner as they would have been continued or enforced by or against the Agriculture and Food Authority and the Kenya Agricultural and Livestock Research Organization had this Act not been enacted.

CLAUSE 38

THAT, the Bill be amended by deleting Clause 38 and substituting therefor the following new clause—

Transition.

38. The holder of an authorization given, or license or permits issued, or registration made by the Tea Directorate of the Agriculture and Food Authority or the Tea Research Institute of the Kenya Agricultural and Livestock Research Organization shall, within six months of the commencement of this Act, apply to the Board for the grant of an authorization, license, permit or registration under this Act.

CLAUSE 39

THAT, the Bill be amended by deleting Clause 39 and substituting therefor the following new clause—

Transfer of Staff.

39. (1) The staff of the Tea Directorate employed by the Agriculture and Food Authority prior to the commencement of this Act, shall be the staff of the Board.

(2) The staff of the Tea Research Institute employed by the Kenya Agricultural and Livestock Research Organization prior to the commencement of this Act, shall be the staff of the Foundation.

CLAUSE 40

THAT, the Bill be amended by deleting Clause 40.

SCHEDULE

THAT, the Schedule of the Bill be amended by deleting the title and substituting therefore the following new title—

“FIRST SCHEDULE”

NEW SCHEDULES

THAT, the Bill be amended by inserting the following new Schedules immediately after the First Schedule—

SECOND SCHEDULE [s. 2]

TEA ZONES	
ZONE	COUNTIES
EAST	Kiambu, Murang’a, Nyeri, Kirinyaga, Embu, Tharaka-Nithi, Meru and Narok.
WEST	Kericho, Bomet, Nakuru, Kisii, Nyamira, Nandi, Kakamega, Vihiga and Trans-Nzoia.

THIRD SCHEDULE

CRITERIA FOR ASSESSING PROFESSIONAL OR MORAL SUITABILITY

(1) In order to determine, for the purposes of this Act, the professional and moral suitability of persons, proposed to be Directors and senior officers of a licensee, the Board shall have regard to the following qualities, in so far as they are reasonably determinable, of the person concerned—

- (a) possession of adequate professional credentials or experience or both for the position for which the person is proposed;
- (b) ability to recommend sound practices gleaned from other situations;
- (c) ability to provide dispassionate advice;
- (d) ability to avoid conflicts of interest in his or her activities and commitments with other organizations;
- (e) ability to absent oneself from decisions when the person is incapable of providing objective advice.

(2) For the purpose of and without prejudice to the generality of the provisions of paragraph (1), the Board, may have regard to the previous conduct and activities of the person concerned in business or financial matters and, in particular, to any evidence that such person—

- (a) has been convicted of the offence of fraud or any other offence of which dishonesty is an element;
- (b) has contravened the provisions of any law designed for the protection of members of the public against financial loss due to the dishonesty or incompetence or other malpractices;
- (c) has taken part in any business practices that, in the opinion of the Board, were fraudulent, prejudicial or otherwise improper (whether unlawful or not) or which otherwise discredited the person's methods of conducting business; or
- (d) has taken part in or been associated with any other business practices as would, or has otherwise conducted himself in such manner as to cast doubt on the person's competence and soundness of judgment.

(3) The Board may request any person to furnish such additional information as may be necessary in determining the professional or moral suitability of the person as stipulated under the Act.

- 6) **Notice is given that the Member for Gichugu (Hon. Gichimu Githinji) intends to move the following amendments to the Tea Bill (Senate Bill No. 36 of 2018) at the Committee Stage—**

CLAUSE 2

THAT, the Bill be amended by deleting the definition of the term “tea grower” and substituting therefor the following new definition-

“tea grower” means a person who grows tea or cultivates tea in Kenya;

CLAUSE 5

THAT, the Bill be amended in clause 5 (1) by inserting the following paragraph immediately after paragraph (c)-

(d) coordinate, facilitate and promote marketing of Kenyan tea.

CLAUSE 7

THAT, the Bill be amended in clause 7(1) –

(a) by deleting paragraphs (d), (e), (f) and (g) and substituting therefor the following new paragraphs–

“(d) two persons of either gender, who shall have knowledge and experience in the tea sector and be from the East and West of tea growing areas, nominated by the Council of Governors;

(e) four persons, two of either gender, representing and elected by small-holder tea growers from the east and west of the tea growing areas:

Provided that the four persons shall be from different tea zones;

(f) one person representing and elected by plantation tea growers;

(g)one person representing and elected by tea traders;”

(b) by inserting the following paragraph immediately after paragraph (g)–

(ga) two persons nominated by the Kenya Tea Development Agency;

- 7) **Notice is given that the Member for Konoin (Hon. Brighton Yegon) intends to move the following amendments to the Tea Bill (Senate Bill No. 36 of 2018) at the Committee Stage—**

CLAUSE 2

THAT, clause 2 of the Bill be amended by deleting the definition “processor” and substituting therefor the following new definition—

“processor” means a factory which processes green tea leaf into made tea;

CLAUSE 21

THAT, clause 21 of the Bill be amended in sub-clause (2) by—

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

“(c) the net weight in kilogrammes of green leaf delivered and amount paid;”

(b) renumbering the existing paragraphs (c) and (d) as (d) and (e).

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clauses immediately after clause 23—

Register of processors. **23A.**The Board shall maintain a register, in such form as prescribed in regulations, of all processors licensed under section 22 and shall enter therein, in respect of each processor —

- (a) the full names of the processor;
- (b) the date of issue of the licence;
- (c) particulars of any cancellation, suspension or variation of the licence;
- (d) any other particulars the Board may deem necessary.

Accounts and audit. **23B.**(1) Every processor shall cause to be kept proper books and records of accounts of the income, expenditure, assets and liabilities of the processor.

(2) Within the period of three months after the end of each financial year, the processor shall submit to the Auditor-General, the accounts of the processor in respect of that year together with a statement of income and expenditure.

(3) The accounts of the processor shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

No. 34 of 2015.

IV. AMENDMENTS TO THE STANDING ORDERS

THAT, the Standing Orders be amended by inserting the following **new Part** immediately after Part XXIX-

NEW PART XXIXA—CONDUCT OF PROCEEDINGS IN EXCEPTIONAL CIRCUMSTANCES

Application

265A. (1) This Part shall apply to the conduct of proceedings of the House and its Committees in an exceptional circumstance.

(2) The provisions of the Standing Orders preceding this Part shall remain in force except as may be modified in this Part.

(3) Where any provision of this Part conflicts with or is inconsistent with the provision of any preceding Standing Order, whether in part or whole, the provisions of this Part shall prevail.

(4) In this Part, “exceptional circumstance” means an event or occurrence as may be lawfully declared in accordance with any written law which precludes the National Assembly from conducting a physical sitting and includes the declaration of an epidemic, pandemic, extreme natural phenomena, pestilence or an act of terrorism.

Alternative sitting arrangements

265B. (1) The Speaker shall invoke the provisions of this Part and permit the House and its Committees to conduct sittings either—

- (a) physically and virtually, where the House is partly precluded from conducting a physical sitting by an exceptional circumstance; or
- (b) virtually, where the House is wholly precluded from conducting a physical sitting by an exceptional circumstance.

(2) The Speaker shall, upon invoking the provisions of paragraph (1) and upon the recommendation of the Procedure and House Rules Committee, prescribe guidelines governing—

- (a) the conduct of the proceedings;
- (b) the manner of voting, manner of conducting a division and the ascertainment of a vote in the proceedings;
- (c) the conduct of Members during the proceedings;

- (d) access to the proceedings by members of public and media;
- (e) public participation and involvement;
- (f) etiquette; and
- (g) such other matter as may be relevant to the conduct of the proceedings.

(3) The guidelines prescribed under paragraph (2) shall cease to apply upon revocation by the Speaker or the cessation of the exceptional circumstance, whichever is earlier.

Other arrangements

265C. During the pendency of an exceptional circumstance—

- (a) the House may, by resolution, vary its ordinary sittings to such a number as the circumstance permits;
- (b) the House Business Committee shall determine and prioritize essential business to be considered by the House; and
- (c) The Speaker may—
 - (i) designate a place outside the chamber but within the precincts of Parliament from where Members may participate in the proceedings;
 - (ii) prescribe the number of Members who may participate in the proceedings from the chamber or any designated place outside the chamber;
 - (iii) permit a Member or any other person required to file, deliver or table any document under the Standing Orders or any written law to file or submit the document electronically for tabling;
 - (iv) where the House is wholly precluded from conducting a physical sitting, deem a document submitted, including a document submitted electronically, to have been tabled, subject to its admissibility; and
 - (v) preclude public access to the House and committees pursuant to Standing Order 252(1).

Use of technology

265D. (1) The Speaker may, taking into account the provisions of Article 126(1) of the Constitution, prescribe an appropriate information and communications technology platform for the conduct of the virtual proceedings under this Part.

(2) The platform prescribed under paragraph (1) shall—

- (a) incorporate video and audio or text;
 - (b) allow the participation of Members in the proceedings in real-time and the broadcast of the proceedings;
 - (c) facilitate the proceedings to be recorded and transcribed under Standing Order 248; and,
 - (d) where the House is wholly precluded from conducting a physical sitting, incorporate a system that allows Members to vote.
- (3) The voting system incorporated under paragraph (2) (d) shall be simple, accurate, verifiable, secure, accountable, transparent and facilitate the prompt declaration of the result of each vote taken.
- (4) The Clerk shall facilitate the participation of Members in virtual proceedings through the use of standard electronic devices specifically configured for the proceedings.

The House resolved on Wednesday, April 22, 2020 as follows:-

- V. THAT**, pursuant to the provisions of Standing Order 97(1) and notwithstanding the resolution of the House of February 18, 2020, each speech in **any debate** during the Sittings of the House on **Wednesday, April 22, Wednesday, April 29 and Wednesday, May 6, 2020**, shall be limited as follows:- a maximum of one hour and thirty minutes with not more than fifteen (15) minutes for the Mover in moving and five (5) minutes in replying and a maximum of five (5) minutes for any other Member speaking, except the Leader of the Majority Party, the Leader of the Minority Party and Chairperson of the relevant Committee who shall be limited to a maximum of ten (10) minutes each, and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and Chairperson of the relevant Committee, in that order.

ADJOURNMENT

VI. NOTIFICATION OF RECESS (MAY07, 2020 - JUNE01, 2020)

Pursuant to the provisions of Standing Order 28(3) relating to *Calendar of the Assembly*, and the resolution of the House of Tuesday, April 14, 2020, the Speaker notifies that upon rise of the House today at the appointed time, regular sittings will resume on **Tuesday, June 02, 2020 at 2:30 p.m.**

(Thereafter, the House to adjourn without question put)

NOTICE PAPER

Tentative business for **Tuesday, June 2, 2020**

(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 Tuesday, June 2, 2020:-

A. THE FINANCE BILL (NATIONAL ASSEMBLY BILL NO. 10 OF 2020)
(The Chairperson, Departmental Committee on Finance & National Planning)

Second Reading

B. MOTION - COMMITTEE OF SUPPLY ON THE ESTIMATES OF EXPENDITURE FOR THE FINANCIAL YEAR 2020/2021

(The Chairperson, Budget & Appropriations Committee)

C. COMMITTEE OF THE WHOLE HOUSE

(i) The Gaming Bill (National assembly Bill No. 38 of 2019)
(The Chairperson, Departmental Committee on Sports, Culture & Tourism)

(ii) The Industrial Training (Amendment) Bill (Nation Assembly Bill No. 4 of 2019)
(The Hon. Jude Jomo, M.P.)

D. THE REFUGEES BILL (NATIONAL ASSEMBLY BILL NO. 62 OF 2019)

(The Leader of the Majority Party)

Second Reading

E. THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILL NO. 19 OF 2018)

(The Chairperson, Departmental Committee on Communication, Information & Innovation)

Second Reading
