

Twelfth Parliament**Third Session****REPUBLIC OF KENYA****TWELFTH PARLIAMENT – FOURTH SESSION****THE NATIONAL ASSEMBLY****VOTES AND PROCEEDINGS****TUESDAY, JUNE 23, 2020 (MORNING)**

1. The House assembled at Ten O'clock.
2. The Proceedings were opened with Prayer.
3. **Presiding** – the Deputy Speaker.
4. **COMMUNICATION FROM THE CHAIR**

The Deputy Speaker issued the following Communication: -

Changes in the Majority Party Leadership

“**Honourable Members**, Standing Order 19(1) provides leeway for the largest party or coalition of parties in the National Assembly to elect a Member of the party or coalition of parties to serve as the Leader of the Majority Party. Further, Standing Order 19(3) outlines the procedure for removal of a Leader of the Majority Party.

In this regard, **Honourable Members**, and pursuant to the provision of Standing Order 19(4), I wish to inform the House that I have received a letter from the Majority Party Chief Whip, communicating that the Jubilee Coalition held a Parliamentary Group meeting on June 22, 2020 at the Kenyatta International Conference Centre (KICC). The letter also conveys that, the Meeting, which comprised of Members of the Coalition in the National Assembly and chaired by the Party Leader, H.E. The President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces –

- (i) removed the Hon. Aden B. Duale, EGH, MP, from the Office of the Leader of the Majority Party in the National Assembly, and

- (ii) elected the Hon. (Dr.) Amos Kimunya, EGH, MP, as the new Leader of the Majority Party in the National Assembly.

Honourable Member, the Majority Party Whip has also attached the Minutes of the proceedings thereby complying with the provisions of Standing Order 19, regarding election and removal of the holder of the Office of the Leader of the Majority Party. Subsequently, the changes takes effect from today, June 23, 2020 and affects all other offices and committee memberships designated for the Leader of the Majority Party. These include the House Business Committee, the Committee on Selection, the Committee on Appointments, and the Liaison Committee.

Honourable Members, I take this opportunity to congratulate **the Hon. (Dr.) Amos Kimunya, EGH, MP** and wish him well in his new mandate. I also wish to sincerely thank **the Hon. Aden Bare Duale, EGH, MP** for diligently and effectively carrying out his work as Leader of the Majority Party since 2013, and further wish him well as he continues to discharge his other duties as a Member of Parliament.

Honourable Members, the House is accordingly guided.

I thank you!"

[Thereafter the Hon. Aden Bare Duale, EGH, MP, gave his Thanksgiving Speech, and formally handed over various documents of the Office of the Leader of the Majority Party to the Hon. (Dr.) Amos Kimunya, EGH, MP, who gave his Inaugural Speech and formally took over as the new Leader of the Majority Party in the National Assembly].

5. PAPERS LAID

The following Paper was laid on the Table of the House:-

- (i) Explanatory Memorandum on Bilateral Air Services Agreement (BASA) between Kenya and United States of America;
- (ii) Report on Achievements and Progress in the Financial Year 2019/2020 from the Ministry of Lands and Physical Planning;
- (iii) Legal Notice No. 61 of 2020 relating to the Public Finance Management (Strategic Food Reserve Trust Fund (Revocation) Regulations, 2020 and the Explanatory Memorandum; and
- (iv) The Draft Land Transaction Registration (Electronic Transactions) Regulations, 2020, with the following accompanying annexures for pre-publication scrutiny:
 - a) Land (Amendment) Regulations ,2020;
 - b) Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
 - c) Land (Allocation of Public Land) (Amendment)regulations, 2020;
 - d) Land Registration (Electronic Transactions) Regulations, 2020;
 - e) Survey (Electronic Cadastre) Regulations, 2020;
 - f) Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020;
 - g) Duty (Valuations) Regulation, 2020;

- h) Stamp Publication Notice;
 - i) Public/Stakeholder Consultation (Annex 3a);
 - j) Public/Stakeholder Consultation (Annex 3b);
 - k) Consultation with National Land Commission (Annex 4)
 - l) Consultation with Council of Governors (Annex 5);
 - m) Multi-Stakeholder Joint Taskforce (Annex 6); and
 - n) Regulatory Impact Assessment Report.
- (v) Annual Report and Financial Statements for the Financial Year 2018/2019 from the Salary & Remuneration Commission.

(Hon. (Dr.) Amos Kimunya, EGH, MP, Leader of the Majority Party)

6. QUESTIONS

The following Questions were made to various Ministries/State Departments/Commissions: -

- (i) Question by Private Notice No.007/2020 by the Member for Trans Nzoia County (Hon. Janet Nangabo) regarding access to critical healthcare by families residing in informal settlements and rural areas in the face of the ongoing Covid-19 pandemic.
(To be prioritized for response by the Cabinet Secretary for Health before the Departmental Committee on Health)
- (ii) Question No.070/2020 by the Member for Gatundu North (Hon. Annie Kibeh) regarding construction of the Gatukuyu – Kairi- Matara road in Gatundu North Constituency.
(To be responded to by the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works before the Departmental Committee on Transport, Public Works and Housing)
- (iii) Question No.071/2020 by the Member for Kabete (Hon. Kamau Wamacukuru) regarding provision of communication allowances to Nyumba Kumi officials and administrators.
(To be responded to by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)
- (iv) Question No.072/2020 by the Member for Tharaka (Hon. George Gitonga Murugara) regarding withdrawal of five Deputy Principals from the 2017 Collective Bargaining Agreement.
(To be replied to by the Cabinet Secretary for Education before the Departmental Committee on Education and Research)
- (v) Question No.079/2020 by the Member for Mwatate (Hon. Andrew Mwadime) regarding construction of a Standard Gauge Railway line linking Voi, Mwatate and Taveta in Taita Taveta County.
(To be responded to by the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works before the Departmental Committee on Transport, Public Works and Housing)

The following Questions was dropped on account of the Member being absent:-

Question No.069/2020 by the Member for Nakuru Town East (Hon. David Gikaria) regarding construction of the Southern By-pass road near Lake Nakuru National Park.

7. THE FINANCE BILL (NATIONAL ASSEMBLY BILL NO. 10 OF 2020)

Motion made and Question proposed-

THAT, the Finance Bill (National Assembly Bill No. 10 of 2020) be now read a Second Time.

(Chairperson, Departmental Committee on Finance & National Planning -18.06.2020)

Debate on the Motion having been concluded on Thursday, June 18, 2020;

Question put and agreed to.

8. THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILL NO. 15 OF 2020)

(The Leader of the Majority Party)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

9. THE SOCIAL ASSISTANCE (REPEAL) BILL (NATIONAL ASSEMBLY BILL NO. 16 OF 2020)

(The Leader of the Majority Party)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

10. COMMUNICATION FROM THE CHAIR

Guidance on Application of Article 114 of the Constitution and Standing Order 133 on Certain Proposed Amendments to the Finance Bill

“**Honourable Members**, before we proceed to the next order, being the Committee of the whole House on the Finance Bill (National Assembly Bill No. 10 of 2020), I wish to make the following guidance which relates to consideration of part of the proposed

amendments to the said Bill. As you may have observed, the Notices annexed to today's Order Paper contains several amendments that have been proposed to the Bill. Most of the amendments have been proposed by the Departmental Committee on Finance and National Planning, which has sponsored the Bill, the Departmental Committee on Justice and Legal Affairs and the Departmental Committee on Transport, Public Works and Housing. There are also amendments proposed by the Member for Kikuyu Constituency, which I am guided have similarity with those of the Departmental Committee on Finance and National Planning. I have approved all those amendments as they are in order with respect to the requirements of Article 114 of the Constitution and our Standing Orders. Those proposed amendments may therefore be considered in the Committee of the whole House.

Honourable Members, there are also other amendments proposed by the Leader of the Minority Party, the Hon. John Mbadi, EGH, MP and others proposed by the Member for Gatundu South, the Hon. Moses Kuria, MP, whose consideration I will not permit. This is because the amendments proposed by the two Hon. Members have not complied with the provisions of Article 114 of the Constitution and Standing Order 133(5).

As Hon. Members are aware, it is now an established practice that whenever the House is to consider any matter that may have financial implication on public funds, the House is bound to proceed only in accordance with the recommendations of the relevant Committee, having taken the views of the Cabinet Secretary for Finance. Indeed, the intention of this provision is to ensure that, while the House reserves the power to determine revenue raising measures, it ought not commit the public without taking cognizance of the fiscal policy and other considerations of the National Government. Further, **Honourable Members**, Standing Order 133(5) provides that –

“no amendment shall be permitted to be moved if the amendment deals with a different subject or proposes to unreasonably or unduly expand the subject of the Bill, or is not appropriate or is not in logical sequence to the subject matter of the Bill.”

Honourable Members, the Leader of the Minority Party, the Hon. John Mbadi is proposing to amend the Bill in Clause 12 by inserting a **new** item in the Second Schedule of the Value Added Tax Act, 2013, whose effect is to **zero rate Taxable goods, imported or purchased for direct and exclusive use in the implementation of official aid funded projects**. In addition, the Member for Gatundu South (Hon. Moses Kuria) is proposing to amend Clause 11 of the Bill as well as an insertion of New Clauses 14A, 14B, 28A and new Clause 38 in the Bill. These amendments targeting the Value Added Tax Act, 2013, the Tax Procedures Act, 2015, the Insurance Act (cap 487) and the Stamp Duty Act (Cap 480) not only offend the provisions of Standing Order 133(5), but proceeding with the same would offend the provisions of Article 114 of the Constitution. This is because the Departmental Committee on Finance and National Planning, having taken the views of the Cabinet Secretary for the National Treasury recommends to the House in its Report that, **the House should not proceed to consider the amendments**.

I therefore direct that the Committee of the whole House shall not consider the amendments proposed by the two Members to the stated parts of the Bill.

The House is accordingly guided!

I thank you!”

11. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Second Chairperson in the Chair

The Finance Bill (National Assembly Bill No. 10 of 2020)

Clause 2 - amendment proposed

THAT, the Bill be amended by deleting the proposed clause 2 and substituting therefor the following new clause –

“2. Section 6A of the Income Tax Act is amended in subsection (1) by deleting–

(a) the words “one hundred and forty-four thousand shillings” and substituting therefor the words “two hundred and eighty-eight thousand shillings”; and

(b) the word “ten” and substituting therefor the word “fifteen”.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 2 - as amended agreed to

Clauses 3 and 4 - agreed to

Clause 5 - amendment proposed

THAT, the Bill be amended in clause 5 by deleting paragraph (f).

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 5 - as amended agreed to

Clauses 6 and 7 - agreed to

Clause 8 - amendment proposed

THAT, the Bill be amended in clause 8-

(a) by deleting paragraph (b);

(b) by deleting paragraph (c) and substituting therefor the following new paragraph-

“(c) by deleting the both paragraphs 53;”

(c) by inserting the following new paragraph immediately after paragraph (c)

-

“(d) by inserting the following new paragraph immediately after paragraph 52-

53. Monthly pension granted to a person who is sixty-five years of age or more.”

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 8 - as amended agreed to

Clauses 9 and 10 - agreed to

Clause 11 - amendment proposed

THAT, the Bill be amended in clause 11 (a) by -

(a) inserting the following sub-paragraph immediately after sub-paragraph (i)-

“(ia) deleting tariff numbers 8309.90.90 and its corresponding description appearing in paragraph 39 (3)”;

(b) deleting paragraph (viii).

(c) inserting the following new paragraph immediately after paragraph (viii)-

(ix) deleting paragraph 108;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 11 - as amended agreed to

Further amendment proposed;

THAT, the Bill be amended in clause 11 by inserting the following new paragraph immediately after paragraph (iv)-
(iva) deleting paragraph 51;

(Leader of the Minority Party & Member for Suba South (Hon. John Mbadi)

(Amendment not permitted by the Speaker pursuant to Article 114 of the Constitution)

Further amendment proposed;

THAT, the Bill be amended in clause 11 by inserting the following new paragraph immediately after paragraph (c)-
(ca) in Part II, by inserting the words “Insurance agency, insurance brokerage, securities brokerage services and” immediately before the word “tea” in paragraph 10.

(Hon. Moses Kuria, M.P.)

(Amendment not permitted by the Speaker pursuant to Article 114 of the Constitution and Standing Order 133(5))

Clause 12 - amendment proposed

THAT, the Bill be amended in clause 12 by inserting the following paragraph immediately after paragraph (c) -

(d) inserting the following new paragraph immediately after paragraph 19-

20. The supply of maize (corn) flour, cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten percent in weight.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Further amendment proposed;

THAT, the Bill be amended in clause 12 by inserting the following new paragraph immediately after paragraph (b)-

(c) inserting the following new item immediately after item 10-

(10A) Taxable goods, imported or purchased for direct and exclusive use in the implementation of official aid funded projects upon approval by the cabinet Secretary responsible for the National Treasury.

(Leader of the Minority Party & Member for Suba South (Hon. John Mbadi)

(Amendment not permitted by the Speaker pursuant to Article 114 of the Constitution and Standing Order 133(5))

Clause 12 - as amended agreed to

Clause 13 - agreed to

Clause 14 - amendment proposed

THAT, the Bill be amended by deleting clause 14 and substituting therefor the following new clause-

Amendment of the
First Schedule to
No.23 of 2015.

14. The First Schedule to the Excise Duty Act, 2015 is amended -

(a) in paragraph 1 of Part 1 by-

(i) deleting the expression “10%” appearing in the description “Beer, Cider, Perry, Mead, Opaque beer and mixtures of fermented beverages with non-alcoholic and spirituous beverages of alcoholic strength not exceeding 10%” and substituting therefor the expression “6%”;

(ii) by deleting the expression “10%” appearing in the second column against the description “Spirits of undenatured ethyl alcohol; spirits beverages of alcoholic strength exceeding 10%” and substituting therefor the expression “8%”;

(b) by deleting paragraph 5 in Part 1.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Clause 14 - further amendment to the amendment proposed

THAT, the amendment be further amended by;

- (i) deleting the expression “8%” appearing in (a) (ii) and replacing it thereof with the expression “6%”;
- (ii) inserting the words “liqueurs and other spirituous”; and
- (iii) deleting the words “Part I” appearing in (b) and replacing it thereof with the words “Part II.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment to the amendment proposed;

Debate arising;

Question on the further amendment to the amendment put and agreed to;

Question on the amendment as further amended put and agreed to;

Clause 14 - as amended agreed to

Clauses 15, 16, 17 and 18 - agreed to

Clause 19 - amendment proposed

THAT, the Bill be amended in clause 19 –

- (a) in paragraph (a) (iv) by deleting the words, “all goods, including materials supplies” appearing in the proposed new paragraph (xxv);
- (b) in paragraph (b) (ii) by deleting the words, “all goods, including materials supplies” appearing in the proposed new paragraph (ix).

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 19 - as amended agreed to

Clause 20 - agreed to

Clause 21 - amendment proposed

THAT, the Bill be amended in clause 21 by deleting paragraph (a) and substituting therefor the following new paragraph–

- (a) by deleting the definition of the term “toll collector” and substituting therefor the following new definition–

“toll collector” means a public toll collector appointed under section 4 and includes a private toll collector appointed under section 4B;

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

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 21 - as amended agreed to

Clause 22 - amendment proposed

THAT, the Bill be amended in clause 22 by –

(a) inserting the following paragraph immediately before paragraph (a)-

“(a) by inserting the following sub-section immediately after sub-section (1)-

(1A) Notwithstanding subsection (1), a private toll collector shall only levy toll and collect monies payable on a public toll road constructed under an agreement entered into under section 4A.

(b) by renumbering the existing paragraphs as (b) and (c).”

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 22 - as amended agreed to

Clauses 23 and 24 - agreed to

Clause 25 - amendment proposed

THAT, clause 25 of the Bill be amended in the proposed new section 6A by—

(a) inserting the words “except transit tolls” immediately after the word “tolls” appearing in subsection (2); and

(b) inserting the following new subsection immediately after subsection (2)-

(2A) The purpose of the Fund shall be to provide funds for the —

- (a) proper functioning of toll roads and toll stations; and
- (b) development, repair or maintenance of roads as the Minister may direct.

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

Question of the amendment proposed;

Debate arising;

Clause 25 - further amendment to the amendment proposed

THAT, the amendment be further amended by inserting the words “**taking into account regional balancing**” immediately after the word “direct” in the new subsection 2A(b)”.

(Hon. Millie Odhiambo, MP)

Question of the further amendment proposed;

Debate arising;

Question on the further amendment put and agreed to;

Question on the amendment as further amended put and agreed to;

Clause 25 - as amended agreed to

Clause 26 - amendment proposed

THAT, clause 26 of the Bill be amended in the proposed amendment to section 8 by—

- (a) inserting the following new paragraph immediately before the renumbered paragraph (b) —
 - (a) by deleting the words “shall be guilty of an offence and liable to a fine not exceeding five thousand” appearing in the proviso to subsection (1) and substituting therefor the words “commits an offence and shall upon conviction, be liable to a fine not exceeding fifty thousand”.
 - (b) renumbering the existing provision as paragraph (b).

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

Question of the amendment proposed;

Debate arising;

Debate arising;

Clause 26 - as amended agreed to

Clauses 27, 28 and 29 - agreed to

Clause 30 - Amendment proposed

THAT, the Bill be amended by deleting clause 30.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the deletion proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 30 - Deleted

Clause 31 - Amendment proposed

THAT, the Bill be amended by deleting clause 31.

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

Question of the deletion proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 31 - Deleted

Clause 32 - agreed to

Clause 33 - Amendment proposed

THAT, the Bill be amended by deleting the proposed amendment in clause 33 and substituting therefor the following new clause-

“Section 16 of the Kenya Revenue Authority Act, 1995 is amended-

(a) in subsection (1) by deleting paragraph (a) and substituting therefor the following new paragraph-

“(a) at least two percent of the revenue actually collected by the Authority in the previous financial year;”

(b) in subsection (1) by inserting the following new paragraph immediately after paragraph (b)-

“(ba) any commission received by the Authority for collecting any revenue on behalf of a county government or government agency;”

(c) by inserting the following subsection immediately after subsection (1)-

(1A) Subject to subsection (1) (ba), the commission received by the Authority shall not exceed two percent of the total revenue collected on behalf of the county government or government agency.

Proposed amendment **withdrawn** by the Mover.

Clause 33 - agreed to

Clause 34 - amendment proposed

THAT, the Bill be amended in clause 34 in the proposed new section 20A (a) by deleting the words “twelve months” and substituting therefor the words “three years”.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 34 - as amended agreed to

Clauses 35 and 36 - agreed to

Clause 37 - amendment proposed

THAT, clause 37 of the Bill be amended by deleting the word “registered” appearing in the proposed new item (h) and substituting therefor the word “licensed”.

(Hon. Jennifer Shamallah, Member of the Departmental Committee on Justice and Legal Affairs on behalf of the Committee)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 37 - as amended agreed to

New Clause 9A - New Clause 9A proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 9-

Amendment of Eighth Schedule to Cap. 470.

9A. The Eight Schedule to the Income Tax Act is amended in paragraph 3 by deleting sub-paragraph (2) and substituting therefor the following sub-paragraph-

(2) The gain accruing to a company on any transfer of machinery classified in paragraph 1 (b) of the Second Schedule is not chargeable to tax under section 3(2) (f).

(Chairperson, Departmental Committee on Finance and National Planning)

Question made and Question proposed -

THAT, the New Clause 9A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed -

THAT, the New Clause 9A be Part of the Bill

Debate arising;

Question put and agreed to;

New Clause 9A - New Clause 9A agreed to

New Clause 10A - New Clause 10A proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 10-

Amendment of section 68 of No. 35 of 2013.

10A. Section 68 of the Value Added Tax Act, 2013, is amended by inserting the following new sub-section immediately after subsection (2)—

(2A) Notwithstanding the repeal of paragraph 102 of the First Schedule, the exemption of goods imported or purchased locally for direct and exclusive use in the implementation of projects under a special operating framework arrangement with the Government, shall continue for existing projects for the remaining period of the agreement.

(Chairperson, Departmental Committee on Finance and National Planning)

Question made and Question proposed -

THAT, the New Clause 10A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed -

THAT, the New Clause 10A be Part of the Bill

Debate arising;

Question put and agreed to;

New Clause 10A - New Clause 10A agreed to

New Clause 13A - New Clause 13A proposed

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

Amendment of section 10 of No. 23 of 2015 13A. The Excise Duty Act, 2015 is amended by deleting section 10 and substituting therefor the following new section-

Adjustment for inflation 10. (1) Despite section 8, the Commissioner shall, with the approval of the Cabinet Secretary, by notice in the *Gazette*, adjust the specific rate of excise duty once every year to take into account inflation in accordance with the formula specified in Part 1 of the First Schedule.

(2) The notice under subsection (1) shall be laid before the National Assembly within seven days from the date of publication.

(3) The National Assembly shall, within twenty-eight sitting days of the receipt of the notice under sub-section (2), consider the notice and make a resolution either to approve or reject the notice.

(4) The notice shall cease to have effect, if a resolution disapproving the notice is passed by the National Assembly.

(Chairperson, Departmental Committee on Finance and National Planning)

Question made and Question proposed -

THAT, the New Clause 13A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed -

THAT, the New Clause 13A be Part of the Bill

Debate arising;

Further amendment proposed;

THAT, New Clause 13A be further amended in new section 10(1) by deleting the word “shall” and replacing thereof with the word “may”.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question on the further amendment put and agreed to;

New Clause 13A - as amended agreed to

Further New Clause 13A proposed;

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

Amendment
of section
10 of No.
23 of 2015.

13A. Section 10 of the Excise Duty Act is amended —

(a) by deleting the words “shall, by notice in the *Gazette*, adjust the specific rate of excise duty once every year” and substituting therefor the words “may, with the approval of the Cabinet Secretary, by notice in the *Gazette*, adjust the specific rate of excise duty once every two years;”

(b) by renumbering the existing section as sub-section (1);

(c) by inserting the following new subsections immediately after the renumbered sub-section (1)—

(2) The Cabinet Secretary shall submit to the National Assembly the notice issued under sub-section (1), within seven days from the date of the publication of the notice in the *Gazette*.

(3) The National Assembly shall, within twenty-eight sitting days of receipt of the notice under subsection (2), consider the notice and make a resolution thereon to either approve or reject the notice.

(4) Where the National Assembly approves a notice,

the notice shall take effect within seven days of such approval.

(5) Where the National Assembly fails to approve or rejects a notice, the notice shall not take effect.

(Hon. Kimani Ichung'wah, M.P.)

Further New Clause 13A withdrawn by the mover.

New Clause 13A - as amended agreed to

New Clause 14A & New Clause 14B - New Clause 14A & New Clause 14B proposed

THAT, the Bill be amended by inserting the following new clauses immediately before clause 15-

Amendment of section 12 of No. 29 of 2015.

14A. Section 12 of the Tax Procedures Act, 2015 is amended by inserting the following sub-section immediately after subsection (5A)-

(5B) Without prejudice to sub-section (5A), the following person may be exempt from the requirement for a PIN—

- (a) persons who are exempt from tax in Kenya;
- (b) non- resident persons whose entire income is taxed under the withholding tax regime;
- (c) non-resident persons opening bank accounts for purposes of transacting marketable securities listed in the Nairobi Securities Exchange.

Amendment of section 37 C of No. 29 of 2015.

14B. Section 37C of the Tax Procedures Act, 2015 is amended by deleting sub-section (1) and substituting therefor the following new subsection—

(1) Notwithstanding any other provision of this Act, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest for a company that lists on the growth segment of the securities exchange in Kenya, in respect of any year of income prior to the date of listing.

(Hon. Moses Kuria, M.P.)

(Amendment not permitted by the Speaker pursuant to Article 114 of the Constitution and Standing Order 133(5))

New Clause 28A - New Clause 28A proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 28-

Amendment of section 156 of Cap. 487.

28A. The Insurance Act is amended by deleting section 156 and substituting therefor the following new section –

Cash and carry payment of premiums.

156. (1) No insurer shall assume a risk in Kenya in respect of insurance business unless and until the premiums payable thereon is received by the insurer.

(2) An insurer who contravenes subsection (1), shall be liable for a penalty equivalent to fifty percent of the premium payable to the Policyholders Compensation Fund or upon conviction shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or both.

(3) An intermediary shall upon receipt of any premiums on behalf of an insurer immediately remit the same to the insurer.

(4) An intermediary who contravenes subsection (3) shall be liable to refund the premium and pay a penalty equivalent to twenty percent of the unremitted premium to the client.

(5) Any officer or director of an intermediary who contravenes subsection (3) shall be guilty of an offence, and upon conviction shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term of three months or both.

(6) An insurer shall pay an intermediary insurance commission due within thirty days upon receipt of premium.

(7) An insurer who contravene subsection (6) shall be liable to a penalty five million shillings on each contravention, payable to the policyholders Compensation Fund.

(Chairperson, Departmental Committee on Finance and National Planning)

Question made and Question proposed -

THAT, the New Clause 28A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed -

THAT, the New Clause 28A be Part of the Bill

Debate arising;

Question put and agreed to;

New Clause 28A - New Clause 28A agreed to

Further New Clause 28A proposed;

THAT, the Bill be amended by inserting the following new clause immediately after clause 28-

Amendment of section 156 of Cap. 487. **28A.** Section 156 of the Insurance Act is amended by inserting the following new subsections immediately after sub-section (2)-

(2a) Without prejudice to the provisions of sub-section (2), an intermediary may receive premiums through electronic platforms.

(2b) An intermediary, who receives premiums under sub-section (2a), shall submit the premiums to the Insurer within forty-five days.

(Hon. Moses Kuria, M.P.)

(Amendments not permitted by the Speaker pursuant to Article 114 of the Constitution and Standing Order 133(5))

New Clause 28A - New Clause 28A agreed to

New Clause – New Clause Proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 37-

Amendment of the Schedule to Cap. 480 **38.** The Schedule to the Stamp Duty Act is amended by-

(a) deleting item 22; and

(b) inserting the following item immediately after item 21 in the “General Exemptions” –

22. Marketable Securities.

(Amendment not permitted by the Speaker pursuant to Article 114 of the Constitution)

Title - agreed to

Clause 1 - amendment proposed

THAT, the Bill be amended in clause 1 —

(a) by inserting the expression “13A,” immediately after the expression “9,” in paragraph (a);

(b) by inserting the following new paragraph immediately after paragraph (a) –
(ab) section 11 (a) (i) and (iv), 11(d), 19 (a) (i) and 12 (a) on 1st July, 2021;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Clause 1 - further amendment to the amendment proposed

THAT, the amendment be further amended by inserting the expression “**8(b)**” immediately before the expression “11(a)”.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question on the further amendment put and agreed to;

Question on the amendment as amended put and agreed to;

Clause 1 - as amended agreed to

Bill to be reported with amendments.

12 HOUSE RESUMED - the Third Chairperson in the Chair

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 Finance Bill (National Assembly Bill No. 10 of 2020).

(Chairperson, Departmental Committee on Finance and National Planning)

Motion made and Question proposed –

THAT, the Motion for Agreement with the Report of the Committee of the Whole House on its consideration of the Finance Bill (National Assembly Bill No. 10 of 2020) be amended by inserting the words “**subject to Recommittal of New Clause 28A**”.

(Hon. Kimani Ichung’wah, MP)

Question put and agreed to;

New Clause 28A to be **Recommitted**.

13. **HOUSE ROSE** - at Five minutes past One O'clock.

And the time being Five minutes past One O'clock, the Third Chairperson of Committees interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

MEMORANDUM

The Speaker will take the Chair on
Tuesday, June 23, 2020 at 2.30pm

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