



**TWELFTH PARLIAMENT – (FOURTH SESSION)**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**TUESDAY, JULY 21, 2020 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer said by the Speaker.

3. **PETITIONS**

**a) Petitions presented/reported to the Senate: -**

- i) Pursuant to Standing Order 230(2)(a), the Senator for Nyandarua County (Sen. Paul Githiomi, MP) presented to the Senate a Petition concerning resettlement of internally displaced persons (IDPs) living in Nyandarua County.

Pursuant to Standing Order 231, the Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition to the Standing Committee on Land, Environment and Natural Resources, pursuant to Standing Order 232(1).

- ii) Pursuant to Standing Order 230(2)(b), the Speaker reported to the Senate a Petition by the Makueni County Assembly Committee on Environment and Climate Change regarding the adverse effects of rock blasting for the construction of Thwake Dam in Makueni County.

Pursuant to Standing Order 231, the Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition to the Standing Committee on National Security, Defence and Foreign Relations, pursuant to Standing Order 232(1).

- iii) Pursuant to Standing Order 230(2)(a), the Senator for Trans-Nzoia County (Sen. (Dr.) Michael Mbiti, MP), presented to the Senate a Petition by pensioners under the Kenya Railways Staff Retirement Benefits Scheme concerning the looming collapse of the scheme due to mismanagement and psychological torture arising from non-payment of benefits.

Pursuant to Standing Order 231, the Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition to the Standing Committee on Labour and Social Welfare, pursuant to Standing Order 232(1).

**b) Report on Petition laid on the Table of the Senate:-**

Report of the Standing Committee on Justice, Legal Affairs and Human Rights on consideration of a Petition to the Senate by Julius Masiva Obuga regarding amendment of the Constitution to delete the cockerel holding an axe in the Coat of Arms and the Public Seal.

*(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)*

**4. PAPERS**

The following Papers were laid on the Table of the Senate: -

- i) The County Governments Budget Implementation Review Report for the First Nine Months of Financial Year 2019/2020.
- ii) The Crops (Sugar) (Imports, Exports and By-Products) Regulations, 2020.
- iii) Statement on the business of the Senate for the week commencing Tuesday, 28<sup>th</sup> July, 2020.

*(The Senate Majority Leader)*

**5. STATEMENTS****a) Statement Pursuant to Standing Order 47(1)**

The Senator for Vihiga County (Sen. George Khaniri, MP) made a statement regarding handling of the COVID-19 Situation in the country.

Thereupon, the Senator stated that, following the two weeks after relaxation of the containment measures, especially the partial lockdown, there has been a sharp rise in daily reported confirmed cases and deaths. Under the circumstances, the country needs leadership in order to hasten preparedness of counties in terms of isolation centres and hospital capacity. He noted that, four months since the first case was reported in the country, some counties have not established an Intensive Care Unit (ICU) and some isolation centres identified and earmarked by counties are not up to standard for human habitation.

The Senator also stated that the Ministry of Health needs to provide clear procedure to the public on how to respond to suspected COVID-19 infections in the counties. Further the Ministry needs to ensure that the required medicine to manage this virus is in supply and accessible throughout the country. To this end, the Kenya Medical Supplies Authority (KEMSA) should provide statistics on its ability to supply the required volumes of these drugs. The Senator, stressed that the government should look into the safety and working conditions of medical practitioners.

The Senator further urged the government to reinforce measures aimed at curbing the spread of the pandemic and also urged all Kenyans to adhere to these measures for their own safety.

**b) Statements Pursuant to Standing Order 48(1)**

- i) The Senator for Kakamega County (Sen. Cleophas Malalah, MP) sought a Statement from the Standing Committee on Education on the disbursement of Government capitation funds to schools and the measures to cushion teachers employed by the Schools' Boards of Management and non-teaching staff during the COVID-19 pandemic in Kenya.
- ii) The Senator for Bungoma County (Sen. Moses Wetang'ula, MP) sought a Statement from the Standing Committee on Education concerning payment of salaries to teachers employed in private schools in Kenya following the disruption caused by the COVID – 19 pandemic.
- iii) Nominated Senator (Sen. Abshiro Halake, MP) sought a Statement from the Standing Committee on Labour and Social Welfare regarding the provision of training opportunities to persons living with disabilities (PWDs) serving in the Public Service.
- iv) Nominated Senator (Sen. Abshiro Halake, MP) sought a Statement from the Standing Committee on Land, Environment and Natural Resources concerning the status of automation of land registries and general land records.
- v) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) sought a Statement from the Standing Committee on Land, Environment and Natural Resources concerning the status of Voi Point Limited and land L.R. No. 28683.
- vi) The Senator for Mombasa County (Sen. Mwinyihaji Mohamed Faki, MP) sought a Statement from the Standing Committee on Roads and Transportation concerning the ongoing reconstruction of the Makupa Causeway – Digo road, that leads to Jomvu area.
- vii) Nominated Senator (Sen. Isaac Mwaura, MP) sought a Statement from the Ad- hoc Committee on COVID-19 Situation in Kenya regarding Persons with Disabilities (PWDs) who have benefitted from the COVID-19 Response Fund set up by the National Government.
- viii) Nominated Senator (Sen. Isaac Mwaura, MP) sought a Statement from the Standing Committee on Roads and Transportation regarding Persons with Disabilities (PWDs) who have benefitted from the *Kazi Mtaani* Programme by the National Government.
- ix) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a Statement from the Standing Committee on Energy regarding alleged loss of KShs 7 billion in penalties paid to investors in the Lake Turkana Wind Power Project.
- x) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a Statement from the Standing Committee on Health regarding a public notice

issued by the Kenya Medical Research Institute (KEMRI) on handling of samples and testing for COVID-19.

**c) Statements Pursuant to Standing Order 51(1)(a)**

- i) The Chairperson of the Standing Committee on Education made a Statement regarding the reopening of learning institutions in the wake of the COVID-19 pandemic.

Thereupon, the Chairperson informed the House that the outbreak of the COVID-19 pandemic has largely affected the education sector resulting in global shutdown of education institutions to curb the spread of COVID-19.

The Chairperson stated that the closure has changed how students are learning with the Ministry of Education designing online learning programs and using multiple forms of media and digital platforms to deliver materials and offer learning opportunities.

The Chairperson also stated that on 7<sup>th</sup> July, 2020, the Ministry announced that due to the uncertain environment in the country, the education stakeholders had resolved to reopen all basic education learning institutions in January 2021. In the meantime, the virtual and distance learning programs have been facing numerous challenges and appears to be poorly designed to cater for all the learners due to their varied needs and abilities.

The Chairperson expressed concern that prolonged closure of schools might have a negative impact that will lead to an increase in school drop-out rates and early pregnancies. For this reason, while it is critical to suppress the virus, there is also need to ensure continued learning while protecting the learners and teachers.

The Chairperson informed the House that the government is expected to come up with critical policies, procedures and financing plans needed to improve schooling with a focus on safe operations, including strengthening remote learning practices.

- ii) The Chairperson of the Sessional Committee on Delegated Legislation made a Statement regarding some of the statutory instruments referred to the Committee namely the Public Procurement and Asset Disposal Regulations, 2020 and the Traffic (Driving Schools, Driving Instructors and Driving Licenses) Rules, 2020.

Thereupon, the Chairperson informed the House that the Committee scrutinized and approved the Traffic (Driving Schools, Driving Instructors and Driving Licenses) Rules, 2020 at its 18<sup>th</sup> Sitting held on 15<sup>th</sup> June, 2020, and conveyed the resolution of the Committee to the Ministry of Interior and Coordination of National Government, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, and the National Transport and Safety Authority (NTSA).

The Chairperson also informed the House that the Committee had scrutinized the Public Procurement and Asset Disposal Regulations, 2020. The Committee expressed reservations on a few provisions of the Regulations which need to be aligned to the Parent Act and Statutory Instruments Act, 2013. The Cabinet Secretary for National Treasury and Planning noted the Committee's concerns and gave an undertaking to remedy the offensive provisions and re-publish in the *Gazette*. At its 25<sup>th</sup> Sitting held on 4<sup>th</sup> July, 2020, the Committee resolved to approve the Regulations and conveyed the resolution to the Cabinet Secretary, National Treasury and Planning.

**d) Statement Pursuant to Standing Order 52(1)**

The Senate Majority Leader issued a Statement on the business of the Senate for the week commencing Tuesday, 28<sup>th</sup> July, 2020.

6. **MOTION - PROVISION OF CEMETERY, FUNERAL PARLOURS AND CREMATORIA IN ALL COUNTIES**

(Sen. (Dr.) Alice Milgo, MP)

Order read;

THAT, AWARE THAT under Article 61 of the Constitution of Kenya, land in Kenya is classified into three categories, public, Community and private land;

FURTHER AWARE THAT, public land is vested in both the County and National Governments and is managed on their behalf by the National Land Commission, and that Article 62 (2) clarifies the distribution of public land between the two levels of government.;

COGNIZANT THAT, the Fourth Schedule of the Constitution delegates cemeteries, funeral parlours and crematoria as a function of County Governments;

CONCERNED THAT, cemeteries in the Country are filling up, and counties are finding it increasingly difficult to identify land to allocate as "public" for use as a cemetery with the knowledge that any cemetery or burial-place that is crowded and therefore dangerous to health is defined as constituting a nuisance in the Public Health Act;

NOW THEREFORE, the Senate calls upon the county governments to ensure that funds are allocated in the County Annual Development Plans for FY 2020/2021, towards the planning and development of cemetery, funeral parlours and crematory facilities.

*(Resumption of debate interrupted on Thursday, 12<sup>th</sup> March, 2020)  
(Division)*

Order deferred.

7. **MOTION - APPROVAL OF THE THIRD REPORT OF THE PROCEDURE AND RULES COMMITTEE ON AMENDMENTS TO THE SENATE STANDING ORDERS TO FACILITATE VIRTUAL SITTINGS OF THE SENATE AND ITS COMMITTEES**

Order read;

Motion made and Question proposed;

THAT, Pursuant to Standing Orders 252 and 255, the Senate approves the Third Report of the Procedure and Rules Committee on amendments to the Senate Standing Orders to facilitate virtual sittings of the Senate and its committees, laid on the table of the Senate on Tuesday, 16<sup>th</sup> June, 2020, and pursuant to the provisions of Article 124(1) of the Constitution and Standing Orders 255 and 257-

- i. resolves to amend its Standing Orders as contained in Appendix 1 to the Report; and,
- ii. orders that the amendments to the Standing Orders as contained in Appendix 1 to the Report shall come into effect upon approval.

*(Vice-Chairperson, Procedure and Rules Committee)*

Debate arising;

And there being no other Senator willing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 79(1), Temporary Speaker (Sen. Isaac Mwaura, MP) ruled that the Question did not affect counties;

Question put and agreed to.

**RESOLVED ACCORDINGLY**

THAT, Pursuant to Standing Orders 252 and 255, the Senate approves the Third Report of the Procedure and Rules Committee on amendments to the Senate Standing Orders to facilitate virtual sittings of the Senate and its committees, laid on the table of the Senate on Tuesday, 16<sup>th</sup> June, 2020, and pursuant to the provisions of Article 124(1) of the Constitution and Standing Orders 255 and 257-

- i. resolves to amend its Standing Orders as contained in Appendix 1 to the Report; and,
- ii. orders that the amendments to the Standing Orders as contained in Appendix 1 to the Report shall come into effect upon approval.

- 8. **COMMITTEE OF THE WHOLE**  
**THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION**  
**(AMENDMENT) (NO. 3) BILL (NATIONAL ASSEMBLY BILLS NO. 35 OF 2019)**  
 (The Senate Majority Leader)

Order read;

Order deferred.

- 9. **COMMITTEE OF THE WHOLE**  
**THE COUNTY TOURISM BILL (SENATE BILLS NO. 5 OF 2019)**  
 (Sen. (Dr.) Agnes Zani, MP)

Order deferred.

- 10. **COMMITTEE OF THE WHOLE**  
**THE CARE AND PROTECTION OF CHILD PARENTS BILL (SENATE BILLS NO. 11 OF 2019)**  
 (Sen. Beatrice Kwamboka, MP)

Order deferred.

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. (Dr.) Isaac Mwaura, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

- 11. **SENATE ROSE** – at thirty Minutes past Six O'clock.

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Tuesday, July 28, 2020 at 2:30 p.m.*

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