



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FOURTH SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, OCTOBER 13, 2020**

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

The Speaker conveyed the following Communication –

**Consideration of Senate amendments to a Bill originating from the National Assembly**

“Honourable Members,

Before we proceed to Order No.s 12 and 13 being a Motion on Consideration of Senate amendments to the Independent Electoral & Boundaries Commission (Amendment)(No.3) Bill (National Assembly Bill No. 35 of 2019), and Committee of the whole House on these Senate amendments respectively, I wish to guide the House on the procedure to be followed. You will recall that the National Assembly passed the **Independent Electoral & Boundaries Commission (Amendment)(No.3) Bill (National Assembly Bill No. 35 of 2019)** on 24<sup>th</sup> September 2019. The Bill seeks to amend the First Schedule to the Independent Electoral & Boundaries Commission Act, 2011 to provide for the establishment of a Selection Panel to oversee the filling of vacant positions in the Independent Electoral & Boundaries Commission. Following its passage by the House, the Bill was forwarded to the Senate for consideration as it is a Bill concerning county governments.

Honourable Members, the Senate made various amendments to the Bill. The Senate amendments were committed to the Departmental Committee on Justice & Legal Affairs and are now awaiting consideration by the House. The amendments will be moved by the Chairperson of the Departmental Committee on Justice & Legal Affairs. The manner of disposing these amendments is provided for under Standing Orders 145 to 148.

In summary, **Honourable Members**, the House will generally debate the Senate amendments for not more than one hour under the motion, “**THAT the Senate Amendments be now considered**”. Thereafter, should the House resolve to consider the amendments, the House will dissolve into Committee of the Whole House to dispose off the amendments, sequentially. On the other hand, should the motion be negatived, the provisions of Article 112 of the Constitution relating to a Mediation process will apply. Similarly, should the Committee of the Whole House amend or reject any of the Senate amendments, the Mediation process will take effect.

In conclusion, **Honourable Members**, should the House pass the Senate Amendments as proposed, I will then proceed to forward the Bill to the President for Assent in accordance with the provisions of Article 112 of the Constitution.

I thank you”.

5. **MESSAGE FROM H.E. THE PRESIDENT**

The Speaker conveyed the following Message -

**Nominee for appointment as the Data Commissioner**

“Honourable Members, pursuant to the provisions of Standing Order 42(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from His Excellency the President seeking the National Assembly’s approval for the appointment of **Ms. Immaculate Kassait** as the **Data Commissioner**, in accordance with the provisions of section 6(4) of the Data Protection Act, 2019, as read together with section 5 (1) of the Public Appointments (Parliamentary Approval) Act, 2011.

Honourable Members, section 6(4) of the Data Protection Act, 2019, requires the President to nominate, and with approval of the National Assembly, appoint the Data Commissioner. Further, section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011, provides that -

*“Unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the relevant House for debate and decision within fourteen days from the date on which the notification of nomination was given in accordance with section 5.”*

Honourable Members, Pursuant to the provisions of Standing Order 45, I hereby refer this Message, together with the *Curriculum Vitae* of the Nominee to the Departmental Committee on Communication, Information and Innovation to undertake the necessary approval hearings and table its report to enable the House to consider the matter within the statutory timelines. The Committee is therefore advised to expeditiously proceed to notify the nominee and the public and thereafter commence the approval hearings. Noting that the fourteen days period within which the Committee is expected to consider the nominee and table its report for debate will lapse during the period of the short recess, the Committee is at liberty to seek extension of time for consideration of the nominee in accordance with the provisions of section 13(1) of the Public Appointments (Parliamentary Approval) Act, 2011.

I thank you”.

6. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Reports of the Auditor-General and the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2019 and the certificates therein: -
  - a) Parliamentary Service Commission;
  - b) Regional Pastoral Livelihoods Resilience Project (IDA Credit No.KE53880 – KE);
  - c) Strengthening Fertilizer Quality and Regulatory Standards in Kenya Project for the State Department for Agricultural Research;
  - d) Office of Registrar of Political Parties;
  - e) Ministry of Foreign Affairs;
  - f) Independent Electoral and Boundaries Commission; and
  - g) State Department for Petroleum.
- (ii) Annual Report of the Independent Electoral and Boundaries Commission for 2019/2020; and
- (iii) Legal Notice No. 194 of 2020 relating to the Adjustment of Excise Duty Rates for Inflation in line with Section 10 of the Excise Duty Act, 2015 and the Explanatory Memorandum from the Kenya Revenue Authority.

*(The Leader of the Majority Party)*

- (iv) Addendum on Public Participation Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the National Aviation Management Bill (National Assembly Bill No.18 of 2020).

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

- (v) Reports of the Departmental Committee on Health on its consideration of: -
  - i. The Kenya National Blood Transfusion Bill, 2020;
  - ii. The Public Petition Regarding Withdrawal of harmful chemical pesticides in the Kenyan market.

*(Chairperson, Departmental Committee on Health)*

- (vi) Reports of the Departmental Committee on Lands on its consideration of: -
  - a. Public Petition regarding compulsory acquisition of land in Marsabit County by the Kenya Defence Forces;
  - b. Public Petition regarding Settlement of over 25,000 Shareholders of the Mutukanio Ngwataniro Company Land in Nakuru and Laikipia; and

- c. Public Petition regarding regularization of allocation of land in Golini Settlement Scheme.

*(Chairperson, Departmental Committee on Lands)*

- (vii) Reports of the Departmental Committee on Sports, Culture and Tourism on -
- a. Inquiry into the status of Stadia in Kenya; and
  - b. its consideration of the Kenya National Library Service Bill, 2020.

*(Chairperson, Departmental Committee on Sports, Culture and Tourism)*

7. **NOTICE OF MOTION**

The following Notice was given –

THAT, this House adopts the report of the Departmental Committee on Sports, Culture and Tourism on the Status of Stadiums in Kenya, laid on the Table of the House today, October 13, 2020

*(Chairperson, Departmental Committee on Sports, Culture and Tourism)*

8. **QUESTIONS**

The following Question were asked –

- (i) Question by No.198/2020 by the Member for Baringo County (Hon. Gladwell Cheruiyot) regarding upgrading to bitumen standards of Ravine-Sigoro-Ochi road;

*(To be replied to by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development before the Departmental Committee on Transport, Public Works and Housing)*

- (ii) Question by No.245/2020 by the Member for Kimilili (Hon. Didmus Barasa) regarding number of schools which benefited from Infrastructure Development Funds for 2018/2019;

*(To be replied to by the Cabinet Secretary for Education before the Departmental Committee on Education and Research)*

- (iii) Question by No.275/2020 by the Member for Marakwet West (Hon. William Kisang) regarding marking of Cheptongei-Kapsait road

*(To be replied to by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development before the Departmental Committee on Transport, Public Works and Housing)*

- (iv) Question by No.282/2020 by the Nominated Member (Hon. Godfrey Osotsi) regarding awarding of contract to M/s Export Trading Company by NCPB

*(To be replied to by the Cabinet Secretary for Agriculture, Livestock and Fisheries before the Departmental Committee on Agriculture and Livestock*

- (v) Question by No.283/2020 by the Member for Teswo South (Hon. Geoffrey Omuse) regarding assigning a code to Amukura Police Station;

*(To be replied to by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)*

- (vi) Question by No.284/2020 by the Member for Mavoko (Hon. Patrick Makau) regarding alleged substandard works in construction of the new Mlolongo Primary School after its relocation by KeNHA;

*(To be replied to by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development before the Departmental Committee on Transport, Public Works and Housing)*

- (vii) Question by No.285/2020 by the Member for Kiambu (Hon. Jude Njomo) regarding lack of payment to non-teaching staff in public secondary schools since April, 2020;

*(To be replied to by the Cabinet Secretary for Education before the Departmental Committee on Education and Research)*

9. **STATEMENTS**

The following Members requested for Statements –

- (i) The Member for Igembe North (Hon. Maoka Maore) on freezing of hiring of civil servants by the government;
- (ii) The Nominated Member (Hon. David Sankok) on appointment of Persons With Disabilities to State Office;
- (iii) The Member for Tiaty (Hon. William Kamket) on the Criteria used by Teachers Service Commission during recruitment of teachers; and
- (iv) The Member for Matayos (Hon. Geoffrey Makhokha) on the Intended Lease Of Land L.R. No. Bukhayo/Nasewa/1500 by Government In Matayos Division

Response to statement –

The Chairperson, Departmental Committee on Administration and National Security issued a statement on the request by the Member for Garissa Township (Hon. Aden Duale) on increased cases of abduction of citizens of Garissa County.

10. **PROCEDURAL MOTION- EXTENSION OF TIME FOR CONSIDERATION OF A PETITION**

Motion made and Question proposed –

**THAT**, notwithstanding the provisions of Standing Order 227(2) (*Committal of Petitions*), this House **resolves** to extend the period for consideration of a public Petition regarding insecurity in Marsabit County presented by the Hon. Ali Dido Rasso, MP (Saku Constituency) by the Departmental Committee on Administration and National Security by a **further period of forty-five (45) days** with effect from 13<sup>th</sup> October, 2020.

*(Chairperson, Departmental Committee on Administration and National Security)*

Debate arising;

Mover replied;

Question put and agreed to.

11. **PROCEDURAL MOTION – EXTENSION OF THE PERIOD FOR CONSIDERATION OF STATUTORY INSTRUMENTS**

Motion made and Question proposed –

**THAT**, in furtherance to the provisions of Standing Order 210(3) relating to the mandate of the Committee on Delegated Legislation, and notwithstanding the provisions of Section 15(2) of the Statutory Instruments Act, 2013 relating to the period of consideration of Statutory Instruments by the Committee, this **House resolves** to extend the period for consideration of the following four (4) Statutory Instruments submitted to the House on 22<sup>nd</sup> April, 2020 by a **further period of twenty-one (21) days** with effect from 13<sup>th</sup> October, 2020–

- (i) The Law Society of Kenya (General) Regulations, 2020, (Legal Notice No. 32 of 2020);
- (ii) The Special Economic Zones (Amendment) Regulations, 2020, (Legal Notice No. 33 of 2020).
- (iii) The Capital Markets (Coffee Exchange) Regulations, 2020, (Legal Notice No. 40 of 2020); and
- (iv) The Capital Markets (Commodity Markets) Regulations, 2020, (Legal Notice No. 41 of 2020).

*(Chairperson, Committee on Delegated Legislation)*

Debate arising;

Mover replied;

Question put and agreed to.

12. **THE PUBLIC FUNDRAISING APPEALS BILL (NATIONAL ASSEMBLY BILL NO. 66 OF 2019)**

Motion made and Question proposed -

**THAT**, the Public Fundraising Appeals Bill (National Assembly Bill No.66 of 2019) be now read a Second Time

*(Chairperson, Constitutional Implementation Oversight Committee)*

Debate on the Second Reading having been concluded on Thursday, October 8, 2020;

Question put and agreed to;

Bill read a Second Time and committed to the Committee of the whole House tomorrow.

13. **MOTION - CONSIDERATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE ITALIAN REPUBLIC ON THE LUIGI-BROGLIO MALINDI SPACE CENTRE**

Motion made and Question proposed -

**THAT**, this House **adopts** the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi-Broglio Malindi Space Centre, *laid on the Table of the House on Wednesday, 26th June, 2019*, and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012 **approves** the Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi-Broglio Malindi Space Centre.

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

Debate arising;

Debate on the Motion adjourned to accord Members time to go through the agreement.

14. **MOTION - SPECIAL AUDIT REPORT ON PROCUREMENT OF PRE-EXPORT VERIFICATION OF CONFORMITY TO STANDARD SERVICES BY THE KENYA BUREAU OF STANDARDS**

Motion made and Question proposed -

**THAT**, this House **adopts** the Report of the Public Investments Committee on its consideration of the Special Audit Report on Procurement of Pre-Export Verification of Conformity to Standard Services for Used Motor Vehicles, Mobile Equipment and Used Spare Parts by the Kenya Bureau of Standards, laid on the Table of the House on Tuesday, June 02, 2020, **subject** —

(a) **deletion** of recommendation **(i)** appearing under Committee Recommendations under chapter 5 on page 61 of the Report;

(b) **deletion** of recommendation **(ii)** appearing under Committee Recommendations under chapter 5 on page 61 of the Report and substituting therefor the following-

***“(ii) In line with the recommendations of the Auditor General in the Special Audit Report dated 10th July 2019, KEBS’ due diligence report on Tender No. KEBS/T057/2014-2015, and the findings of this Committee, the Public Procurement Regulatory Board, pursuant to section 41 of the Public Procurement and Asset Disposal Act (No 33 of 2015,) and Regulation No. 22 of the Public Procurement and Asset Disposal Regulations, 2020, immediately commences debarment proceedings against M/S EAA and MS ATJ for violating the Public Procurement and***

**Asset Disposal Act in TENDER No. KEBS/T019/2017/2020 and Ms. EAA in Tender No. KEBS/T057/2014-2015.**

- (c) **deletion** of Recommendation (v) appearing under Committee Recommendations under chapter 5 on page 63 of the Report and substituting therefor the following new recommendation—

***“(v) The Ethics and Anti-Corruption Commission (EACC) investigates the circumstances under which KEBS entered into a contract with MS/EAA Company Limited and M/S Auto Terminal Japan and submits its findings hereon to the National Assembly within sixty (60) days of adoption of this Report.”***

*(Chairperson, Public Investments Committee)*

Debate arising;

Question of the amendments proposed;

**THAT**, the Motion be amended by inserting the following words after the figure “2020”-

**“Subject to the following-**

- (a) deletion of **Recommendations (ii), (iii) and (iv)** appearing under ‘Committee Recommendations’ under Chapter 5 on page 61 of the Report; and,
- (b) deletion of **Recommendation (v)** appearing under ‘Committee Recommendations’ under Chapter 5 on page 63 of the Report and substitution thereof with the following recommendation-
- (v) ***The Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) should expeditiously investigate the circumstances under which the KEBS entered into contract with M/s EAA Company Limited and M/s Auto Terminal Japan and report their findings to the National Assembly.”***

*(Member for Homa Bay Town the Hon. Peter Kaluma, MP)*

Amendment Withdrawn

**Further amendment proposed**

Question of the amendment proposed

**THAT**, the Motion be amended by inserting the following words after the figure “2020”-



**“Subject to deletion of Recommendations (ii), (iii), (iv) and (v) appearing under ‘Committee Recommendations’ under Chapter 5 on pages 61 to 63 of the Report.”**

*(Member for Makueni (Hon. Daniel Maanzo, MP)*

Amendments withdrawn;

Debate on the Original Motion resumed;

Mover replied;

Question put and agreed to.

And the time being two minutes to Seven O’clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

15. **HOUSE ROSE** - at two minutes to Seven O’clock.

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

The Speaker will take the Chair on  
Thursday, October 15, 2020 at 10.00 a.m.

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