



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, DECEMBER 01, 2020

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

The Speaker conveyed the following Communication –

Communications from the Chair on consideration of the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 15 of 2020)

Honourable Members,

Before we commence Second Reading of the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 15 of 2020), and the Committee of the whole House on the Bill, I wish to draw your attention to Notice No.1 on page 1197 of the Supplementary Order Paper. You will realize that there are two categories of Parts of the Bill that have been withdrawn. The first category relates to parts withdrawn following joint resolution of the Speakers of the Houses of Parliament under Article 110(3) of the Constitution. These consist of all provisions proposing to amend the following Statutes as contained in the Bill-

- (i) The Housing Act (Cap. 117);
- (ii) The Basic Education Act, 2013 (No. 14 of 2013);
- (iii) The Political Parties Act 2011 (No. 11 of 2011); and
- (iv) The Public Procurement and Asset Disposal Act, 2015 (No. 33 of 2015).

Honourable Members, the second category refers to parts withdrawn by the Leader of the Majority Party on 15th July, 30th July and 28th August 2020, with the Speaker's consent, as contained in the Notice. This means that all the fourteen provisions, as listed in the Order Paper, have been withdrawn and will not be considered at all by the House. I have also received representation in my Chambers regarding proposed amendments to the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015. The proposals contained in the original Bill were intended to provide for the administration of other benefits (**NOT** pension), entitled to retired Speakers of Parliament, the Chief Justice and Deputy Chief Justice and to factor such benefits in the respective estimates of the Parliamentary Service and the Judiciary.

Honourable Members, whereas that was the intent of the initial proposal as published in the Bill, my attention has been drawn to a proposed amendment by the Departmental Committee on Finance and National Planning relating to the inclusion of pension and other

benefits for retired Deputy Speakers. However noble the aim of the Committee was in its proposal, the recent Court ruling on the matter of Nairobi High Court Petition Number 284/2019 consolidated with Nairobi High Court Petition Number 353/2019: *The Senate of the Republic of Kenya & Others versus the Speaker of the National Assembly of the Republic of Kenya & Others* and for which the National Assembly has filed an application for stay of execution, will mean that any matter touching on the two Houses of Parliament contained in this Bill will be put in abeyance.

In addition, it is my view that the amendment may also encroach on the powers of the Salaries and Remuneration Commission as stipulated under Article 230(4)(a) of the Constitution, which provides that –

“(4) The powers and functions of the Salaries and Remuneration Commission shall be to –

(d) set and regularly review the remuneration and benefits of all State Officers;”

Honourable Members, as your Speaker, and even as a possible future beneficiary of part of the amendments relating to the administration of benefits, I have the option of allowing the provisions to proceed for debate. However, for the good of future holders of this office, I instead choose to order that the entire provision relating to the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 **be withdrawn** to allow for comprehensive consultations between, amongst others, the Parliamentary Service Commission, the Judicial Service Commission, the Salaries and Remuneration Commission and the National Treasury. Consequently, the provisions of the Bill relating to the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 hereby stand withdrawn and will not be considered at the Second Reading and the Committee Stage of the Bill.

Further, **Honourable Members**, as you may notice from the Order Paper, there are amendments proposed by the Hon. Gathoni Wamuhomba, MP to **the Kenya Roads Act, 2007**. However, this Act is not one of those being proposed for amendments in the Bill as published. Therefore, the amendments fall outside the scope of the Bill and go against the provisions of Standing Order 133(5).

These amendments are therefore inadmissible, and shall not be considered by the House at Committee stage if reached today or later in the week.

The House and Members affected are accordingly guided. **I thank you!**

5. PETITIONS

The Speaker conveyed the following Petitions: -

a) Public Petition regarding the activities of Nzoia Quarry Limited

Honorable Members, pursuant to Standing Order 225(2)(b) requiring the Speaker to report to the House any Petition, other than those presented by a Member, I wish to report to the House that I have received a Petition from members of the Manyoni community in Lugari sub-county, Kakamega County.

Honorable Members, the petitioners are farmers who predominantly rely on subsistence farming and also keep domestic animals. In the year 2017, Nzoia Quarry Ltd acquired land in the area for purposes of mining of stones. As a result of poor environmental impact assessment, environmental pollution occasioned by operations of the quarry has been disastrous. Deafening noise caused by the blasting machines operations has affected the learning environment in neighbouring schools and is detrimental to the health of children, the sick, expectant women and the elderly. In addition, dust emitted from the mining activities has caused air pollution which has

resulted in respiratory problems, caused redundancy in the growth of crops and limited availability of clean water for domestic use.

Honorable Members, the petitioners further aver that the presence of trucks carrying heavy loads of quarry materials have resulted into rapid deterioration of infrastructure by weakening of bridges and rendering roads impassable during rainy season.

Honorable Members, the petitioners are concerned that Nzoi a Quarry Limited has not made any attempts to integrate with the local community through offering of opportunities nor through Corporate Social Responsibility activities.

Honourable Members, efforts by the petitioners to have the matter resolved by relevant stakeholders have been futile. The petitioners therefore pray that the National Assembly makes recommendations that it deems fit in addressing the circumstances raised in this Petition, including ensuring that Nzoi a Quarry Limited compensates the affected persons and realigns its operations so as to exist harmoniously with the locals.

Honourable Members, pursuant to the provisions of Standing Order 227, this Petition stands committed to the Departmental Committee on Environment and Natural Resources for consideration. The Committee is required to consider the Petition and report its findings to the House and the Petitioners in accordance with Standing Order 227(2). **I thank you”**

Petition referred to the Departmental Committee on Environment and Natural Resources pursuant to Standing Order 227(1)

b) Regarding resettlement of squatters of Tucha/Kiandogoro Forest on Solio Ranch Village 5

Honorable Members, pursuant to Standing Order 225(2)(b) requiring the Speaker to report to the House any Petition, other than those presented by a Member, I wish to report to the House that I have received a Petition from residents of Tetu sub county, representing evictees from Tucha/ Kiandogoro Forest.

Honourable Members, the Petitioners affirm that they are part of 534 households that were duly vetted on 11th October 2017 by a Committee led by the Deputy County Commissioner, Tetu Sub County. The Petitioners state that they were evicted from Tucha/ Kiandogoro Forest in 1988 with a promise to be resettled at Solio Ranch Village 3. Unfortunately, people who were not validated as evictees ended up being the beneficiaries, leaving the legitimate beneficiaries homeless and destitute.

Honourable Members, the Petitioners assert that in 2008, a major resettlement was done to evictees from Kabarū, Naro Mburū, Hombe in Mount Kenya Forest and those evicted from Kabage and Zaina in Arbedare Forest, leaving out evictees from Tucha/Kiandogoro Forest. Currently, the Tucha/Kiandogoro Forest evictees are scattered all over Nyeri County. Most of them work as casual labourers with limited chances of making a living from agriculture the main economic activity, due to lack of land to cultivate. The petitioners claim that Village 5 of Solio Ranch is still vacant and unsettled on.

Honourable Members, efforts by the petitioners to have the matter resolved by the relevant authorities have culminated into the Regional Commissioner, Central Region advising the mvi de a letter dated 18th December 2019, to file a petition to Parliament since the matter required intervention from several Government agencies. The petitioners therefore pray that the National Assembly intervenes to have the evictees resettled.

Honourable Members, pursuant to the provisions of Standing Order 227, this Petition stands committed to the Departmental Committee on Lands for consideration. The Committee is required to consider the Petition and report its findings to the House and the Petitioners in accordance with Standing Order 227(2). **I thank you!**

Petition referred to the Departmental Committee on Lands pursuant to Standing Order 227(1)

6. PAPERS LAID

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

- (i) Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30^h June, 2019 and the certificates therein –
- a) State Department for Livestock;
 - b) State Department for Correctional Services;
 - c) Machakos University; and
 - d) Cash Transfer Program for Orphans and Vulnerable Children - I DA Grant No. 097272- KE

(Hon. Emmanuel Wangue – Majority Party Whip)

- (ii) Reports of the Committee on Members' Services & Facilities on –
- a) Leadership seminar held in Kuala Lumpur, Malaysia on 26^h to 30^h August, 2019;
 - b) Study visit to the Legislative Assembly of Alberta, Canada on 14^h to 18^h October, 2019; and
 - c) Study visit to the Parliament of Turkey on 14th to 20^h October, 2019.

(Chairperson, Members' Services & Facilities Committee)

- (iii) Reports of the Departmental Committee on Labour and Social Welfare on its consideration of the following –
- a) Report on a public petition regarding payment of salary arrears to staff of the Kenya Postal Corporation of Kenya;
 - b) Report on the Employment (Amendment) Bill (National Assembly Bill No. 79 of 2019); and
 - c) Report on a fact-finding visit on social protection measures put in place by the government in combating covid-19 pandemic in Coastal region.

(Chairperson, Departmental Committee on Labour & Social Welfare)

- (iv) Report of the Departmental Committee on Finance and National Planning on its Consideration of the Agreement for the Avoidance of Double Taxation between the Government of the Republic of Kenya and the Government of the Republic of Mauritius.

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

- (v) Report of the Departmental Committee on Administration and National Security on its consideration of the Narcotics, Drugs and Psychotropic Substances (Control) (Amendment) Bill, 2020.

(Chairperson, Departmental Committee on Administration & National Security)

- (vi) Report of the Departmental Committee on Lands on its consideration of a petition by residents of Chepchasbas regarding historical land injustices in Chepchasbas area in Bomet and Kericho Counties.

(Chairperson, Departmental Committee on Lands)

- (vii) Report of the Departmental Committee on Education and Research on the petition regarding imminent closure of Jomo Kenyatta University of Agriculture and Technology, Kakamega Campus by the Hon. Titus Khamala, MP.

(Chairperson, Departmental Committee on Education & Research)

7. NOTICES OF MOTION

The following Notices of Motion were given -

- (i) **Report of the Departmental Committee on Finance and National Planning on its consideration of the Agreement for the Avoidance of Double Taxation between the Government of the Republic of Kenya and the Government of the Republic of Mauritius.**

THAT, this House **adopts** the Report of the Departmental Committee on Finance and National Planning on its consideration of the Agreement for the Avoidance of Double Taxation between the Government of the Republic of Kenya and the Government of the Republic of Mauritius, *laid on the Table of the House on Tuesday, December 1, 2020*, and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012 **approves** *the Agreement for the Avoidance of Double Taxation between the Government of the Republic of Kenya and the Government of the Republic of Mauritius.*

(Vice Chairperson, Departmental Committee on Finance & National Planning)

- (ii) **Report of the Departmental Committee on Labour and Social Welfare on a Fact-Finding Visit on Social Protection Measures put in place by the Government in combating Covid-19 Pandemic in Coastal Region.**

THAT, this House **adopts** the Report of the Departmental Committee on Labour and Social Welfare on a Fact-Finding Visit on Social Protection Measures put in place by the Government in combating Covid-19 Pandemic in Coastal Region, *laid on the Table of the House on Tuesday, December 1, 2020.*

(Chairperson, Departmental Committee on Labour & Social Welfare)

8. QUESTIONS

(a) The following Questions were asked -

- (i) **Question No. 343/2020** by the Member for Trans Nzoia (Hon. Janet Nangabo) regarding rehabilitation and revamping of the railway network to Kitale Town in Trans Nzoia County.

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

- (ii) **Question No. 345/2020** by the Member for Nyando (Hon. Jared Okelo) regarding flooding in Nyando Constituency.

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

- (iii) **Question No. 351/2020** by the Member for Lamu County (Hon. (Capt.) Ruwei da Obo) regarding the plight of the *Bajun* people of the Coastal Region.

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

- (iv) **Question No. 355/2020** by the Member for Rabai (Hon. Kamoti Mwanikale) regarding securing of markets for excess produce from farmers in Kilifi County and their compensation.

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

- (v) **Question No. 365/2020** by the Member for Starehe (Hon. Charles Njagua Kanyi) regarding conservation of food and relief items for emergencies.

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

- (vi) **Question No. 366/2020** by the Member for Kiambu (Hon. Jude Njomo) regarding prohibition and restriction of LYFT substance in the country.

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

- (vii) **Question No. 367/2020** by the Member for Naivasha (Hon. Jayne Kihara) regarding issuance of a wrong KCSE Certificate to one Ms. Njambi E. Kimani, an orphan.

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

(b) The following Question was deferred: -

- (i) **Question No. 365/2020** by the Member for Subukia (Hon. Samuel Gachobe) to the Cabinet Secretary for Interior and Coordination of National Government regarding recruitment of a Chief for *Wéi* Location in Subukia.

9. STATEMENTS

The following Statements were made by -

- a) The Majority Chief Whip regarding the Burial of the Late Hon. Justus Murunga, MP Member for Matungu Constituency; and
- b) The Member for Teso North (Hon. Oku Kaunya) regarding the killing of Mr. Ezekiel Odera by a Police Officer.

Response to Statements by: -

- a) Chairperson, Departmental Committee on Education and Research (Hon. Mutua, Florence Mwikali) on a request by the Member for Kiimili, Hon. Didimus Barasa on measures to address embezzlement of funds in Public Schools; and

- b) The Chairperson, Departmental Committee on Environment and Natural Resources (Hn. Kareke Mbiuki) on a request by the Member for Nandi Hills (Hn. Alfred Keter) regarding the perennial landslides and mud slides in parts of Nandi Hills Constituency.

10. **PROCEDURAL MOTION – EXTENSION OF SITTING TIME**

Motion made and Question Proposed –

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House orders that should the time appointed for adjournment of the House today be reached before conclusion of business appearing under **Order No. 12** on the Order Paper, the sitting of the House shall stand extended until the conclusion of the said business.

(The Leader of the Majority Party)

There being no debate arising

Question put and agreed to.

11. **MOTION APPROVAL OF THE CONVENTION ON THE INTERNATIONAL HYDROGRAPHIC ORGANIZATION**

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 Accession to the Convention on the International Hydrographic Organization (IHO), *laid on the Table of the House on Tuesday, November 17, 2020*, and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012 **approves** the Accession to the Convention on the International Hydrographic Organization (IHO) by the Republic of Kenya.

(The Chairperson, Departmental Committee on Defence & Foreign Relations)

Debate on the Motion having been concluded on Thursday, November 26, 2020;

Question put and agreed to.

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

Order for Second Reading read;

Motion made and question proposed –

THAT, the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 15 of 2020, be read a Second time.

(Bill to proceed excluding Parts withdrawn following joint resolution of the Speakers of the Houses of Parliament under Article 110(3) of the Constitution in addition to Parts withdrawn by the Leader of the Majority Party, as listed under Notice I to the Order Paper)

(The Leader of the Majority Party)

Debate Arising

There being no other Member desiring to contribute;

Mover Replied;

Question put and agreed to.

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

13. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Deputy Speaker in the Chair

(i) **THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILL NO 15 OF 2020)**

SCHEDULE

Provisions relating to the Interpretation and General Provisions (Cap 2)

Proposed amendments to section 3 - agreed to

Provisions relating to the Interpretation and General Provisions (Cap 2) - agreed to

Provisions relating to the Records Disposal Act (Cap 14)

Proposed amendment to section 2 (1) - amendment proposed

Further Amendment proposed;

THAT, the Schedule to the Bill be amended-

(a) in the proposed amendments to the Records Disposal Act (Cap. 14) -

Inserting the words “Environment and Land Court” immediately after the words “Employment and Labour Relations Court” appearing in the proposed amendment to section 2 (1) of the Act.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising

Question put and agreed to;

Section 2 (1) as amended - agreed to

Provisions relating to the Records Disposal Act (Cap 14) as amended - agreed to

Provisions relating to the Penal Code (Cap. 63)

Proposed amendments to section 52 (3) (b) - agreed to

Provisions relating to the Penal Code (Cap. 63) - agreed to

Provisions relating to the Public Holidays Act (Cap. 109)

Proposed amendments to section 3 - agreed to

Proposed amendments to the schedule - agreed to

Provisions relating to the Public Holidays Act (Cap. 109) - agreed to

Provisions relating to the Fire Arms Act (Cap. 114)

Proposed amendments to sections (2, 27 (8), 29 (3), 38 (1), 38 (2), 38 (3), 38 (4) & 39 (2) - agreed to

Provisions relating to the Fire Arms Act (Cap. 114) - agreed to

Provisions relating to the Official Secrets Act (Cap. 187)

Proposed amendments to section 2(1) - agreed to

Proposed amendment to section 6 - amendment proposed
Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Official Secrets Act (Cap 187), by deleting the proposed amendments to section 6 and substituting therefor the following—

S. 6 Delete and substitute therefor the following new section—

Production of data 6. (1) Where it appears to the Cabinet Secretary that it is in national interest to do so, the Cabinet Secretary may, apply to the High Court for an order, requiring any person who owns or controls any telecommunications apparatus used for the sending or receipt of any data to or from any place outside Kenya, to produce to the Cabinet Secretary or any person named in the order, the original or transcripts of all such data and all other documents relating to such data.

(2) Any person who fails to comply with a request made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(Chairperson, Departmental Committee on Administration and National Security)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 6 as further amended - agreed to

Proposed amendments to sections 10(1), 10(2), & 19(1) - agreed to

Provisions relating to the Official Secrets Act (Cap. 187) as amended - agreed to

Provisions relating to the Kenya Roads Board Act, 1999

Proposed amendments to Second schedule, paragraph 3 - agreed to

NEW SECTIONS

Proposed new section 7(1)(b)

Motion made and question proposed –

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Roads Board Act, 1999 by inserting the following new amendments in their proper numerical sequence—

s. 7(1)(b) Delete the words “Executive Director” and substitute therefor the words “Director General”.

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

Question for Second Reading proposed;

Debate arising;

Question for Second Reading put and agreed to.

Motion made and question proposed –

THAT New section 7(1)(b) be part of the Bill;
Question put and agreed to.

Proposed new section 7(1)(b) - agreed to.

Proposed New section 12

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Roads Board Act, 1999 by inserting the following new amendments in their proper numerical sequence —

- s. 12 Delete the words “Executive Director” wherever it appears and substitute therefor the words “Director General”.
Insert the following new subsection immediately after subsection (3) —
“(4) The Director General shall hold office for a period of five years and shall be eligible for re-appointment for one further term of five years.”

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

Question for Second Reading proposed;
Debate arising;
Question for Second Reading put and agreed to.
Motion made and question proposed —

THAT New section 12 be part of the Bill;
Question put and agreed to

Proposed new section 12 - agreed to.

Proposed new section 26(1)

Motion made and question proposed —

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Roads Board Act, 1999 by inserting the following new amendments in their proper numerical sequence —

- s. 26(1) Delete the words “Executive Director” and substitute therefor the words “Director General”.

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

Question for Second Reading proposed;
Debate arising;
Question for Second Reading put and agreed to.
Motion made and question proposed —

THAT New section 26(1) be part of the Bill;
Question put and agreed to.

Proposed new section 26(1) - agreed to.

Proposed new section 28

Motion made and question proposed —

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Roads Board Act, 1999 by inserting the following new amendments in their proper numerical sequence —

s. 28 Delete the words “Executive Director” and substitute therefor the words “Director General”.

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

Question for Second Reading proposed;
Debate arising
Question for Second Reading put and agreed to.

Motion made and question proposed —

THAT New section 28 be part of the Bill;
Question put and agreed to

Proposed new section 28 - agreed to

Proposed new section 29

Motion made and question proposed —

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Roads Board Act, 1999 by inserting the following new amendments in their proper numerical sequence —

s. 29 Delete the words “Executive Director” and substitute therefor the words “Director General”.

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

Question for Second Reading proposed;
Debate arising

Question for Second Reading put and agreed to.

Motion made and question proposed —

THAT New section 29 be part of the Bill;
Question put and agreed to.

Proposed new section 29 - agreed to

Second schedule paragraph 3 - agreed to

Amendment proposed

Motion made and question proposed —

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Roads Board Act, 1999 by inserting the following new amendments in their proper numerical sequence —

Second Delete the words "Executive Director" and substitute therefor the
 schedule, words "Director General".
 paragraph
 5(1)

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

Question for Second Reading proposed;

Debate arising;

Question for Second Reading put and agreed to.

Motion made and question proposed -

THAT the proposed amendment to paragraph 5(1) of the second schedule be part of the Bill;

Question put and agreed to

Proposed amendment to Second schedule - agreed to

Provisions relating to the Kenya Roads Board Act, 1999 as amended - agreed to

Provisions relating to the Statistics Act 2006

Proposed amendments to section 23 - agreed to

Provisions relating to the Statistics Act 2006 - agreed to

Provisions relating to the Employment Act, 2007

Proposed amendment to section 2 - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to section 2 of **The Employment Act, 2007** by deleting the words "basic salary".

(Chairperson, Departmental Committee on Labour and Social Welfare)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 2 as amended - agreed to

Proposed amendments to sections 3(2) & 31A - agreed to

Provisions relating to the Employment Act, 2007 as amended - agreed to

Provisions relating to the Accountants Act, 2008

Proposed further amendments to sections 4(2) & 4 - withdrawn by the mover

Proposed amendments to sections 4(2) & 4 - agreed to

Proposed amendment to section 17(2A) - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to The Accountants Act, 2008 by deleting the proposed amendment to section 17(2A) and substituting therefor the following amendment -

2A) s17(Delete and substitute therefor the following new subsection-

(2A) A person seeking to undertake examinations in accountancy as prescribed by the Examination Board shall be registered with the Board, and with the Institute as a trainee accountant.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment to section 17(2A)- Further amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be further amended in the proposed amendments to The Accountants Act, 2008 by inserting the following proviso-

s. 17(2A) Provided that the person shall not be required to pay the Institute any fee for the registration as a trainee accountant, if the person is not employed.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Section 17(2A) as further amended - agreed to
Provisions relating to the Accountants Act, 2008 as amended - agreed to

Provisions relating to the Judicial Service, Act 2011

Proposed amendments to section 7 - agreed to
Provisions relating to the Judicial Service, Act 2011 - agreed to

Provisions relating to the Kenya National Commission on Human Rights, Act 2011

Proposed amendment to section 8 - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya National Commission on Human Rights Act, No. 14 of 2011 by deleting the proposed amendment to section 8 of the Act.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 8 as amended - agreed to

Proposed amendments to sections 11(2) - agreed to

Proposed amendment to section 11(14) - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya National Commission on Human Rights Act, No. 14 of 2011 by deleting the proposed amendment the proposed amendment to section 11(14) of the Act.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 11(14) as amended - agreed to

Provisions relating to the Kenya National Commission on Human Rights, Act 2011 as amended
- agreed to

Provisions relating to the Employment and Labour Relations Court, Act 2011

Proposed amendments to sections 27 - agreed to

Provisions relating to the Employment and Labour Relations Court, Act 2011 - agreed to

Provisions relating to the Ethics and Anti-Corruption, Act 2011

Proposed amendments to sections 11(1)(j) - agreed to

Provisions relating to the Ethics and Anti-Corruption, Act 2011 - agreed to

(Change of chair from the Deputy Speaker to the Fourth Chairperson of Committees)

Provisions relating to the National Police Service Commission, Act 2011

Proposed amendments to sections 10(2) - agreed to

Provisions relating to the National Police Service Commission, Act 2011 - agreed to

Provisions relating to the Public Appointments (Parliamentary Approval), Act 2011

Proposed amendments to section 8(1) - agreed to

Provisions relating to the Public Appointments (Parliamentary Approval), Act 2011 - agreed to

Provisions relating to the Universities, Act 2012

Proposed amendment to section 24 - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Universities Act, No. 42 of 2012 by deleting the proposed new paragraph (d).

(Chairperson, Departmental Committee on Education and Research)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment to section 24 - Further amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Universities Act, No. 42 of 2012 by inserting the following new subsection immediately before the proposed new subsection (3) —

“(2A) Despite subsection (1), the President may, on the recommendation of the Commission through the Cabinet Secretary, and on the advice of the National Security Council, establish a specialized degree awarding institution specializing in national security issues.”

(Vice Chairperson, Departmental Committee on Education and Research)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment to section 24 - Further amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended-

(a) in the proposed amendments to the Universities Act (No. 42 of 2012) -

In the proposed amendment to section 24 by deleting the proposed new subsection (3) and substituting therefor the following new subsection-

“(3) The provisions of Part V of this Act shall apply to an institution established under this section with such modifications as may, with the approval of the Cabinet Secretary and the Commission, be specified in the respective Charter.”

(The Leader of the Majority Party)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Section 24 as further amended - agreed to

Provisions relating to the Universities Act, No. 42 of 2012 as amended - agreed to

Provisions relating to the Kenya Law Reform Commission, Act 2013

Proposed amendment to section 8(1)(b) - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Law Reform Commission Act, 2013 (No. 19 of 2013) by deleting the proposed amendment to section 8(1)(b) of the Act and substitute therefor the following new proposed amendment-

(b) one member appointed by the Attorney-General through an open and competitive process.
(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;
Debate arising;

Question put and agreed to;

Section 8(1)(b) as amended - agreed to

Proposed amendment to section 8(1)(c) - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Law Reform Commission Act, 2013 (No. 19 of 2013) by inserting the words “who shall be an advocate of the High Court of Kenya” immediately after the words “Law Society of Kenya” appearing in the proposed amendment to section 8(1)(c) of the Act.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 8(1)(c) as amended - agreed to

Proposed amendment to section 8(3) - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Law Reform Commission Act, 2013 (No. 19 of 2013) by inserting the words “appointed under sub-section (1)(ca), (d), and (e)” immediately after the words “Chief Justice” appearing in the proposed new section 8(3) of the Act.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Proposed Section 8(3) as amended - agreed to

Proposed sections 9(2) and 12(2) - agreed to

Provisions relating to the Kenya Law Reform Commission Act 2013 as amended - agreed to

Provisions relating to the Scrap Metal, Act 2015

Proposed amendment to section 30(1) - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendment to the Scrap Metal Act, 2015 by deleting the proposed amendment to section 30.

(Hon. Oundo Giambo for Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 30(1) as amended - agreed to

Provisions relating to the Scrap Metal, Act 2015 as amended - agreed to

Provisions relating to the Investment and Financial Analysts), Act 2015

Proposed amendments to sections 18(1)(e) & 20 - agreed to

Proposed amendments to sections 32 & 34 - amendment proposed

Further amendment proposed

THAT, the Schedule to the Bill be amended in the proposed amendments to The Investment and Financial Analysts Act, 2015 by deleting the proposed amendments to sections 32 and 34.

(Amendment withdrawn by the mover)

Proposed amendments to sections 32 & 34 - agreed to

Provisions relating to the Investment and Financial Analysts), Act 2015 - agreed to

Provisions relating to the Court of Appeal (Organization and Administration), Act 2015

Proposed amendment to section 26(1) - amendment proposed

Further amendment proposed;

THAT, the Schedule to the Bill be amended in the proposed amendments to the Court of Appeal (Organization and Administration) Act, No. 28 of 2015 by deleting the proposed amendment to section 26(1) of the Act.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 26(1) as amended - agreed to

Provisions relating to the Court of Appeal (Organization and Administration), Act 2015 as amended - agreed to

Provisions relating to the Witness Protection, Act 2015

Proposed amendments to sections 3J, 3K(2), & 3K(2)(4) - agreed to

Provisions relating to the Witness Protection, Act 2015 - agreed to

Provisions relating to the Kenya Coast Guard Service, Act 2018

Proposed amendments to sections 2, 6(2)(a), 7, 13(2), 14(2) & Part II of the First Schedule - agreed to

Provisions relating to the Kenya Coast Guard Service, Act 2018 - agreed to

Clause 2 - agreed to

Title - agreed to

Clause 1 - amendment proposed

Further amendment proposed;

THAT, clause 1 of the Bill be amended by inserting the words “and shall come into force upon assent” immediately after the words “Statute Law (Miscellaneous Amendments) Act, 2020.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 1 as amended - agreed to

Bill to be reported with amendments.

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

The Second Chairperson in the Chair

Clauses 3 and 4 - agreed to

Clause 5 - amendment proposed -

THAT, the Bill be amended by deleting clause 5 of the Bill and substituting therefor the following new clause —

Functions of
the
Board.

5. The functions of the Board shall be to —

- (a) develop, promote and regulate the development of the tea industry;
- (b) co-ordinate the activities of individuals and organizations within the tea industry;
- (c) facilitate equitable access to the resources, facilities and benefits of the tea industry by all interested parties;
- (d) make recommendations to the Cabinet Secretary on the formulation of policies, plans and strategies for the regulation of the tea sector;
- (e) register tea factories, small scale tea growers, medium scale tea growers, large scale tea growers, warehouse operators, tea packers, tea buyers, exporters, importers, tea brokers, management agents, tea auction organizers, commercial tea nurseries, commercial greenleaf transporters;
- (f) license manufacturers;
- (g) promote best practices and standards in the production, processing, marketing, grading, storage, collection, transportation and warehousing of tea;

- (h) facilitate marketing and distribution of tea through gathering and dissemination of market information and monitoring of the local and global supply-demand situation;
- (i) co-ordinate prioritization of research in tea;
- (j) regulate the sale, import and exports of tea;
- (k) develop, implement and coordinate a national tea marketing strategy;
- (l) prescribe the maximum period and minimum amount for payment of green leaf;
- (m) promote and advise on strategies for value addition and product diversification;
- (n) promote demand and consumption of tea locally and internationally;
- (o) identify market needs and trends and advise the Cabinet Secretary on issues related to national and international tea trade;
- (p) collaborate with national and international trade bodies on tea related matters;
- (q) monitor, conduct surveillance and enforce compliance with tea standards, this Act and any regulations made under it;
- (r) advise the national government on levies, fees and import or export duties on tea;
- (s) advise the county governments on agricultural cess and fees;
- (t) oversee the efficient utilization of available Board's funds;
- (u) undertake capacity building, technology transfer and technical assistance to the counties on matters related to tea;
- (v) 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.

(Chairperson, Departmental Committee on Agriculture and Livestock)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to

Amendment proposed –

THAT, Clause 5 of the Bill be amended in sub-clause (1) 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;”

(Hon. Ronald Tonui)

Amendment dropped *(On account of deletion & substitution by the Chairperson, Departmental Committee on Agriculture and Livestock)*

Amendment proposed –

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

(a) in paragraph (b) by —

(b)

(i) by inserting the following new subparagraph immediately after subparagraph (iv) —

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

(c) 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;

(Hon. Cecily Mbarire)

Amendment dropped *(On account of deletion & substitution by the Chairperson, Departmental Committee on Agriculture and Livestock)*

Clause 5 as amended - agreed to

Clause 6 - amendment proposed -

THAT, Clause 6 of the Bill be amended in sub-clause (1) by inserting the following paragraphs immediately after paragraph (c) —

- “(ca) collaborate with such bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the object and purpose for which the Board is established;
- (cb) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (cc) ensure the proper and effective performance of the functions of the Board;
- (cd) manage, control and administer the Tea Fund for purposes that promote the object and purpose of this Act.”

(Chairperson, Departmental Committee on Agriculture and Livestock)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to

Clause 6 as amended - agreed to

Clause 7 - amendment proposed -

THAT, Clause 7 of the Bill be amended —

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

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

(b) by inserting the following new sub-clause immediately after sub-clause (2) —

“(2A) The appointment of the chairperson or members of the Board under subsection (1) (a), (d), (e), (f) and (g) and shall take into account the gender, regional and other diversities of the people of Kenya.

(Chairperson, Departmental Committee on Agriculture and Livestock)

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 7(1) by deleting paragraphs (d), (e), (f) and (g) and substituting therefor the following new paragraphs -

“(d) one person of either gender, who shall have knowledge and experience in the tea sector and be from either the East and West tea blocks, nominated alternately by the Council of Governors;

(e) four persons, two of either gender, representing, and elected by, small scale and medium scale tea growers from the East and West of the tea blocks;

Provided that two persons shall be from each of the tea blocks;

(f) one person elected and representing large scale tea growers;

(g) one person elected and representing tea traders”

(Hon. Gchi mu Githiji)

Question of the further amendment proposed;
Debate arising;
Question on the further amendment put and agreed to.

Further amendment proposed -

THAT, clause 7 of the Bill be amended in sub-clause (1) by deleting paragraph (e) and substituting therefor the following new paragraph -

“(e) four persons, two of either gender, representing small-holder tea growers from the East and West tea blocks;”

(Hon. Mllie Odhiambo)

Amendment dropped (On account of deletion & substitution by the Hon. Gchi mu Githiji)

Clause 7 as amended - agreed to

Clause 8 - amendment proposed -

THAT, the Bill be amended by deleting clause 8 of the Bill and substituting therefor the following new clause -

Term of appointment. **8.** (1) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall serve for a term of three years renewable for one further term

(2) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 8 as amended - agreed to.

Clause 9 - amendment proposed -

THAT, clause 9(a) of the Bill be amended by deleting the words “the permission of the chairperson” appearing immediately after the words “the Board without” and substituting therefor the words “notifying the chairperson”

(Hbn Millie Odhiambo, MP)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 9 as amended - agreed to.

Clauses 10, 11 and 12 - agreed to.

Clause 13 - amendment proposed -

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 relevant degree from a university recognized in Kenya;
- (b) has at least ten years knowledge and experience in a relevant field;
- (c) has at least five years experience in a position of senior management;
- (d) meets the requirements of Chapter Six of the Constitution

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 13 as amended - agreed to.

Clause 14 - agreed to.

Clause 15 - amendment proposed -

THAT, clause 15 of the Bill be amended in sub-clause (3)(d) by deleting the word “seven” appearing immediately after the words “at least” and substituting therefor the word “five”.

(Hbn Millie Odhiambo, MP)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 15 as amended - agreed to.

Clause 16 - amendment proposed -

THAT, clause 16 of the Bill be amended by—

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

“(2) In employing staff, the Board shall take into account the gender, regional and ethnic diversities of the people of Kenya, youth and persons with disabilities.”

(Hbn Millie Odhiambo, MP)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 16 as amended - agreed to.

Causes 17 and 18 - agreed to.

Clause 19 - amendment proposed -

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

(Hbn Cecily Mbarire, MP)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 19 as amended - agreed to.

PART III (Causes 20, 21, 22, 23 & 24) - amendment proposed -

THAT, the Bill be amended by deleting Part III and substituting therefor the following new Part —

PART III – REGULATORY PROVISIONS

Role of national and county governments in the development of tea.

20. (1) Pursuant to the Fourth Schedule of the Constitution –

- (a) the Board, on behalf of the national government, shall be responsible for licensing and charging of levies;
- (b) each county government shall implement the national government policies to the extent that the policies relate to the county and in particular shall be responsible for —

- (i) the development of tea grown within the county;
- (ii) tea disease and pest control;
- (iii) markets within the county;
- (iv) cooperative societies within the county;
- (v) register commercial tea nursery operators
- (vi) soil and water conservation

(2) In order to achieve the objects and purposes of this Act, the national and county governments shall provide an enabling environment for the development of the tea sector.

Registration of small scale tea growers and medium scale tea growers.

21. (1) A small scale tea grower and medium scale tea grower shall register with the tea factory to which the respective tea growers deliver green leaf or purple leaf using the prescribed form

(2) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of small scale tea growers and medium scale tea growers and the appeal process in case of refusal or denial of registration.

(3) Every tea factory shall keep or cause to be kept for statistical purposes, a register of all small scale tea growers and medium scale tea growers registered under subsection (1) specifying—

- (a) the name of the small scale tea grower and medium scale tea grower;
- (b) the location, size and parcel number of the land on which the tea is grown;
- (c) the net weight in kilogrammes of green leaf delivered and amount paid submitted annually;
- (d) the variety of tea grown; and
- (e) such other information as the Board may prescribe.

(4) Where the tea factory has reasonable cause to believe that a person whose particulars are so recorded has ceased to be a small scale tea grower and medium scale tea grower, it may, after giving that person written notification by registered post of its intention to do so, remove their name from the register.

(5) The register referred to in subsection (6) shall be prima facie proof of the fact that a person is a registered small scale tea grower or medium scale tea grower.

(6) The tea factory shall furnish the Board with particulars of all registered small scale tea growers or medium scale tea growers in such manner as the Board may prescribe.

(7) A person shall not sell or offer for sale green leaf unless the person is registered with a tea factory in accordance with this Act.

(8) A tea factory shall only buy green leaf from its registered tea growers.

(9) A small scale tea grower or medium scale tea grower shall not sell green leaf to any person other than the tea factory where they are registered.

(10) A small scale tea grower or medium scale tea grower wishing to change the tea factory where they deliver their green leaf shall inform their respective tea factory by giving a minimum notice of thirty days.

(11) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings, or imprisonment for a term not exceeding six months, or to both.

22. (1) The Board of Directors of tea factory limited companies shall be a maximum of five members.

(2) The Board shall put in place mechanisms to ensure that not more than two-thirds of the Board of Directors of tea factory limited companies elected or appointed are of the same gender.

(3) The Board of Directors of tea factory limited companies shall be elected through a democratic system of one grower, one vote.

(4) Where a Board member for tea factory limited companies is temporarily unable to perform their duties, the Board may appoint another person from the respective block to act in their place during the period of absence.

Registration of large scale tea growers.

23. (1) A large scale tea grower shall register with the Board in a prescribed form and shall pay the prescribed fee.

(2) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of large scale tea growers and the appeal process in case of refusal or denial of registration.

(3) A person who grows tea in contravention of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or imprisonment for a term not exceeding two years, or to both.

Tea grower certificate.

24. The manager of a tea factory shall issue a certificate of registration to a small scale tea grower, medium scale tea grower or a large scale tea grower in the form prescribed in regulations.

Licensing of manufacturers.

24A. (1) A person shall not manufacture tea for sale except under and in accordance with a licence issued under this Act.
(2) A person shall apply for a manufacturing licence to the Board in a prescribed form and shall pay the prescribed fee.

(3) The Board may, after consultation with the Cabinet Secretary

- (a) issue a manufacturing licence, in accordance with this Act;
- (b) refuse to issue the licence on any ground which may appear to the Board to be sufficient and inform the applicant in writing of the reasons thereof;
- (c) cancel, vary or suspend any licence if in the findings of the Board, the licensee is found to have contravened the regulations made under this Act for the operation of manufacturing entities.

(4) A manufacturing licence issued under this section shall in addition to authorizing the holder to carry on the business set out in subsection (1), also authorize the holder to carry out the business of packing and blending tea.

(5) Before the issuance or renewal of a manufacturing licence for a tea factory limited company the Board shall satisfy itself that the applicant has a procurement policy providing for competitive procurement of goods and services.

Register of
manufacturers.

24B The Board shall maintain a register, in such form as prescribed in regulations, of all manufacturers licensed under this Act and shall enter therein in respect of each tea factory —

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

Illegal
manufacture,
possession, etc.

24C (1) A person commits an offence if the person —

- (a) manufactures tea for sale in contravention of this Act;
- (b) buys, sells, offers for sale, transports or has possession of tea which to the person's knowledge or belief —
 - (i) has been grown, manufactured or processed otherwise than in accordance with this Act;
 - (ii) is from a non-registered grower or dealer of such crop.

(2) A person who commits an offence under subsection (1) shall be liable, on conviction, to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding five years, or both

(3) If a person is in possession or has control of tea for which the person is unable to account to the satisfaction of a crop inspector under this Act, such tea shall be deemed to have been grown, manufactured or dried otherwise than in accordance with this Act until the contrary is proved.

(4) If a person is convicted of an offence under this section, the court shall order that any tea and any vehicle, vessel or other conveyance in relation to which an offence has been committed shall be forfeited to the Government unless, in the case of a vehicle, vessel or other conveyance, the court deems it necessary, for reasons to be recorded by it in writing, not to do so.

Registration of
warehouse
operator.

24D (1) Every warehouse operator shall register with the Board.

(2) A person shall not store tea unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of warehouse operators and the appeal process in case of refusal or denial of registration.

(4) A person who contravenes subsection (2) commits an offence and shall on conviction be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both

Registration of tea packers.

24E (1) Every tea packer shall register with the Board

(2) A person shall not pack tea unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of tea packers and the appeal process in case of refusal or denial of registration.

(4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both.

Registration of a tea buyer, exporter or importer.

24F (1) A person who intends to carry on the business of tea buying, tea exporting or tea importing shall register with the Board.

(2) A person shall not carry on the business of buying tea, exporting or importing tea unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of tea buyers, tea exporters and tea importers and the appeal process in case of refusal or denial of registration.

(4) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both.

Tea imports.

24G (1) A person who imports tea into Kenya shall prior to importation—

(a) provide evidence that the teas they intend to import are not available in the local market or at the tea auction;

(b) provide a sample of the teas to be imported and pre-import verification certificate from the country of origin; and

(c) obtain pre-import approval from the Board.

(2) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.

Registration of a tea broker.

24H (1) Every tea broker shall register with the Board

(2) A person shall not negotiate the purchase or sale of tea unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for —

(a) the procedure for registration of a tea broker and the appeal process in case of refusal or denial of registration;

(b) the maximum number of tea factories that shall be served by a tea broker.

(4) The remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered shall not exceed zero point seven five per centum of the gross sales by the broker.

(5) A person who contravenes subsections (2) and (4) commits an offence and shall, on conviction, be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both

Registration of a management agent.

24I. (1) Every management agent shall register with the Board

(2) A person shall not perform or offer professional services to a tea factory unless the person is registered in accordance with this Act.

(3) Every management agent shall submit annual returns to the Board and a copy to the respective county government in the form prescribed.

(4) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of a management agent and the appeal process in case of refusal or denial of registration

(5) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both

Management agent agreement.

24J. (1) A person who intends to manufacture or deal in tea may engage the services of a management agent upon such terms and conditions as may be agreed in the management agreement between them

(2) A management agent shall sign a management agreement with each tea factory limited company that they intend to offer management agent services to

(3) A management agreement between a management agent and a tea factory, shall be —

(a) submitted to the Board for review and approval before execution by parties; and

(b) for a period of five years, and may be renewed upon expiry at the discretion of the tea factory.

(4) The remuneration for services rendered by a management agent to a tea factory limited company shall not exceed one point five per centum of the net sales value of the tea sold per year.

(5) The staff costs for personnel seconded to the tea factory limited company by a management agent shall be borne by the management agent.

(6) Company Secretarial services shall be excluded from services to be offered by a management agent to a tea factory limited company.

(7) A tea factory shall recruit its own in-house Company Secretary or outsource the service.

(8) Despite subsection (7), a tea factory may enter into an arrangement with one or more tea factories to have a joint in-house Company Secretary.

(9) A director of a tea factory shall not serve as a director in another company having a direct or indirect commercial relationship with the tea factory where the person is serving as a director.

(10) Where the provisions of subsection (9) apply, a director of a tea factory shall forthwith relinquish his or her position

24K (1) Every tea auction organizer shall register with the Board.

Registration of a tea
auction
organizer.

(2) A person shall not deal in tea as a tea auction organizer unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of a tea auction organizer and the appeal process in case of refusal or denial of registration

(4) A person who contravenes this section commits an offence and shall on conviction be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both.

Auction process.

24L (1) All teas processed and manufactured in Kenya for the export market with the exception of orthodox and specialty teas shall be offered for sale exclusively at the tea auction floor.

(2) All tea factory limited companies shall register with the Board and the auction organizer to participate in the tea auction directly and not through management agents.

(3) An auction organizer shall establish an electronic trading platform for the auction of tea that will be usable and accessible to all players in the value chain

(4) A buyer shall pay in full the value of the tea bids they have won at the auction before collecting or taking custody of the tea.

(5) Tea brokers, buyers and the auction organizers shall ensure that the proceeds from the sale of tea are remitted to the tea factories accounts within fourteen days from the date of the auction.

(6) A tea factory shall within thirty days of receipt of the proceeds of the sale of tea, pay tea growers —

- (a) at least fifty per centum of payment due for green leaf delivered every month;
- (b) the balance due to the tea grower within three months from the end of financial year.

(7) An auction organizer shall develop trading rules to govern its operations and the trading rules shall be submitted to the Board for approval.

Registration of commercial green leaf transporters.

24M (1) A person who intends to carry on the business of commercial green leaf transporter shall register with the Board.

(2) A person shall not carry on the business of commercial green leaf transporter unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of commercial green leaf transporters and the appeal process in case of refusal or denial of registration.

(4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both.

Registration of a commercial tea nursery.

24N (1) A person who intends to establish a commercial tea nursery shall register with the county government where they intend to establish a tea nursery.

(2) A person shall not establish a commercial tea nursery unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of commercial tea nurseries and the appeal process in case of refusal or denial of registration.

(4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both.

Considerations before registration and licensing and renewal.

24O (1) The Board shall, before registering, licensing or renewing a registration or licence under this Act, satisfy itself that—

- (a) the applicant has complied with the provisions of this Act and any other relevant law; and
- (b) the applicant or the directors of the company are fit and proper for the function for which they seek a licence or registration.

(2) In determining whether a person is fit and proper, regard shall be had to—

- (a) whether they have taken part in any business practice in the tea value chain that in the opinion of the Board was fraudulent, prejudicial or otherwise improper; or which otherwise discredited their method of doing business; and
- (b) whether they have been directors of a company or entity whose licence or registration certificate has previously been revoked or suspended by the Board for any cause.

(3) In determining whether a person or director is fit and proper, the Board shall have due regard to the provisions of the Fair Administrative Action Act, 2015, the Companies Act, 2015 and any other relevant law

No. 4 of 2015.
No. 17 of 2015.

Conditions of
a licence.

24P. (1) A licence issued under this Act shall be subject to such conditions as the Board may determine and as are specified in the licence and to any conditions which may be prescribed.

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

(3) For the purposes of this section, the criteria for assessing the professional or moral suitability of a person applying for a licence shall be as prescribed in the Second Schedule.

(4) In considering an application for a licence, 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.

(5) The Board may at any time during the validity of a licence —

- (a) vary the conditions of the licence; or
- (b) impose conditions or further conditions on the licence.

Application
for renewal of
a licence.

24Q. (1) An application for the renewal of a licence under this Act shall be made to the Board in a form prescribed not later than the first day of the month of June in which the current licence is due to expire.

(2) Despite subsection (1), a late application may be made upon payment of a late application fee as may be prescribed by the Board.

Revocation or alteration of a licence.

24R The Board may revoke, alter or suspend a licence issued under this Act if in its opinion—

- (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder; or
- (b) a condition of the licence has been contravened or not complied with

Surrender of licence.

24S (1) The holder of a licence which is revoked shall immediately surrender it to the Board.

(2) A licence holder may at any time surrender the licence to the Board and the licence shall cease to have effect immediately.

Appeals to the High Court.

24T (1) An applicant for or holder of a licence who is aggrieved by a decision of the Board may appeal to the High Court on or in respect of—

- (a) the grant, refusal, renewal, variation or revocation; or
- (b) the conditions imposed on the grant, renewal or variation, of a licence.

(2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.

Approval of fees charged.

24U Any fee, commission or other dues charged by a broker, management agent or an auction organizer shall be subject to prior approval by the Board.

Declaration of blended teas.

24V (1) A person who blends any or various grades of tea produced in Kenya with any other tea produced outside Kenya shall declare the percentage of Kenyan tea on the packaging and on the blend sheet.

(2) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for term not exceeding three years or to a fine not exceeding five million shillings or to both.

Taxation of tea.

24W (1) Fees imposed by a county government shall not in any way prejudice national economic policies, economic activities across county boundaries or national mobility of goods, services, capital or labour.

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(2) The Cabinet Secretary shall, using the structures established under the Intergovernmental Relations Act, put in place mechanisms to harmonize fees and charges on tea across counties.

Tea value addition.

24X (1) All tea buyers or exporters shall value add at least forty per centum of their annual Kenya tea exports within eight years of the commencement of this Act.

(2) The Cabinet Secretary shall in accordance with regulations made under this Act and in consultation with the Board, facilitate the establishment of Common User Facility for tea value addition as may be prescribed.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Part III (Clauses 20, 21, 22, 23 & 24) as amended - agreed to.

Clause 25 - amendment proposed -

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) re-numbering the existing paragraphs (a), (b), (c), (d) as (b), (c), (d), (e), respectively.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 25 as amended - agreed to.

Clause 26 - amendment proposed -

THAT, Clause 26 of the Bill be amended —

(a) in sub-clause (1) by deleting the word “three” appearing immediately after the words “at least” and substituting therefor the word “six”;

(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause —

“(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.”

(c) by inserting the following new sub-clause immediately after sub-clause (3) —

“(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary.”

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 26 as amended - agreed to.

Clause 27 - amendment proposed -

THAT, the Bill be amended by deleting clause 27 and substituting therefor the following new clause —

Accounts
and
audit.

27. (1) The Board shall cause to be kept proper books and records of accounts of the income, expenditure and assets of the Board.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Board together with—

- (a) a statement of the income and expenditure of the Board during that year; and
- (b) a statement of financial position of the Board on the last day of that year.

(3) The accounts of the Board shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2015.
(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 27 as amended - agreed to.

Clause 28 - amendment proposed—

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,”;
- (c) in sub-clause (3) by deleting the words “balance sheet” appearing immediately after the words “submit to Parliament the reports,”.

(Chairperson, Departmental Committee on Agriculture & Livestock – Motion moved in an amended form)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 28 as amended - agreed to.

Clause 29 - agreed to.

Clause 30 - amendment proposed—

THAT, Clause 30 of the Bill be amended by—

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

(Chairperson, Departmental Committee on Agriculture and Livestock)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 30 as amended - agreed to.

Clause 31 - agreed to.

Clause 32 - amendment proposed—

THAT, the Bill be amended by deleting clause 32 and substituting the following new clause —

General
penalty

32. A person who commits an offence under this Act for which no penalty is provided shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or a fine not exceeding twice the value of the tea or tea products or, to imprisonment for a term not exceeding one year, or to both

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to.

Further amendment proposed —

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”.

(Hn. Eve Obaro)

Amendment dropped *(On account of deletion & substitution by the Chairperson, Departmental Committee on Agriculture & Livestock)*

Clause 32 as amended - agreed to.

Clause 33 - amendment proposed —

THAT, the Bill be amended by deleting clause 33 and substituting therefor the following new clause —

Regulations

33. (1) The Cabinet Secretary may, in consultation with the Board, make Regulations for the better carrying out of the provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Regulations made under this Act may provide for —

- (a) the regulation of the production, processing, importation and exportation of tea;
- (b) the procedure of registration of tea brokers, small scale tea growers, medium scale tea growers, large scale tea growers, commercial greenleaf transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction organizers, warehouse operators, commercial tea nurseries;
- (c) the procedure of licensing of tea manufacturers;
- (d) the forms to be used in the application for registration, licensing, contracts and related activities;
- (e) the prescribed areas for planting tea;
- (f) the appeal process in case of refusal or denial of a licence;
- (g) monitoring of the entire value chain in the tea sub-sector;
- (h) regulation of the conduct of tea auction including the volumes of tea to be sold through auction or through direct sales;

- (i) the promotion of fair and proper governance structures in institutions along the tea value chain in the interest of tea growers;
- (j) rules to avoid conflict of interest in the ownership and dealings between tea growers, tea factories and tea dealers;
- (k) the criteria for the pricing of green leaf;
- (l) maximum fees charged by players along the value chain;
- (m) the tenure of board members for tea factory;
- (n) procedures for ensuring internal democracy in tea growers' institutions and organizations;
- (o) value addition of tea exports and imports;
- (p) control of pests and diseases;
- (q) any fee charged under this Act;
- (r) the regulation of contracts between growers, tea factories and other players in the tea industry;
- (s) tea safety including transportation, processing and market standards of tea;
- (t) submission of returns and reports by the holders of licences and registrations under this Act;
- (u) regulation and controlling the method of blending, packaging and labelling of tea for purposes of traceability;
- (v) standards, and the manner of grading and classification of made tea products under this Act; and
- (w) anything required to be prescribed under this Act;

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- (3) For the purposes of Article 94(6) of the Constitution—
 - (a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;
 - (b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
 Debate arising;
 Question on the amendment put and agreed to;
Clause 33 as amended - agreed to.

Clause 34 - amendment proposed -

THAT, clause 34 of the Bill be amended—

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

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

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
Debate arising
Question on the amendment put and agreed to;
Clause 34 as amended - agreed to.

Clause 35 - amendment proposed -

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.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
Debate arising
Question on the amendment put and agreed to;
Clause 35 as amended - agreed to.

Clause 36 - amendment proposed -

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.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
Debate arising
Question on the amendment put and agreed to;
Clause 36 as amended - agreed to.

Clause 37 - agreed to.

Clause 38 - amendment proposed -

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

Existing licences and
registrations.

38. All licences and registrations existing before the appointed day shall remain valid until their expiry, and subsequent licences and registrations shall be issued under this Act.

(Chairperson, Departmental Committee on Agriculture and Livestock)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 38 as amended - agreed to.

Clause 39 - amendment proposed -

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.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
Debate arising;
Question on the amendment put and agreed to;
Clause 39 as amended - agreed to.

Clause 40 - amendment proposed -

THAT, the Bill be amended by deleting Clause 40.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;
Debate arising;
Amendment withdrawn;
Clause 40 - agreed to.

NEW CLAUSES

New Clause 23A - amendment proposed -

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

Register
of manufacturers

23A The Board shall maintain a register, in such form as prescribed in regulations, of all manufacturers licensed under this Act and shall enter therein, in respect of each tea factory —

- (a) the full names of the manufacturer;
- (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.

(Hbn. Brighton Yegon)

Amendment withdrawn (On account of deletion & substitution of PART III (Clauses 20-24) by the Chairperson, Departmental Committee on Agriculture & Livestock)

New Part IIIA - amendment proposed

THAT, the Bill be amended by inserting the following new parts immediately after Part III —

PART IIIA – APPOINTMENT OF CROP INSPECTORS

Appoint
ment
of crop
inspect
tors.

24Y. (1) The Board may appoint qualified persons to be crop inspectors for the purposes of this Act.

(2) For purposes of subsection (1), the Board may, by regulations, prescribe the qualifications for a crop inspector.

Entry
and
inspect
ion

24Z. A person duly authorized in writing in that behalf by the Board may, at all reasonable times and upon production of such authority to any person so requesting—

- (a) enter any land or buildings occupied by the holder of a manufacturing licence issued under this Act, or a person registered under this Act;
- (b) make such inspection and enquiries as the person may deem necessary for ascertaining whether the provisions of this Act or the terms and conditions of the respective licence or registration are being complied with; and
- (c) may require any person found thereon to give such information as the person may require.

Power
s of
entry.

24ZA. (1) For the purposes of this Act, an inspector who has reasonable grounds may at any reasonable time, enter upon any land, premises or vehicle and may take such persons and things as the inspector

considers necessary and may —

- (a) perform the functions or exercise the powers conferred by this Act or any other written law
- (b) make enquiries or carry out a search to ascertain if this Act is being complied with;
- (c) demand the production by a licence holder of the licence for examination;
- (d) seize and remove any article or thing in respect of which the inspector has reasonable grounds for believing that an offence under this Act is being or has been committed; or
- (e) do any other thing authorized under this Act.

(2) The owner or occupier of or any person on land or in premises or a vehicle which is entered under subsection (1) shall render such reasonable assistance as may be required by the inspector.

(3) A person who refuses, unreasonably delays or fails to comply with a requirement under subsection (2) commits an offence.

Obstruction of inspectors.

24ZB (1) A person shall not prevent, hinder or obstruct an inspector in performance of the functions, and duties or exercise of powers conferred by this Act.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding three years, or both

(Chairperson, Departmental Committee on Agriculture & Livestock)

Motion made and Question proposed -

THAT, New PART III A be read a Second Time;

Debate arising

Question put and agreed to;

Motion made and Question proposed -

THAT, New PART III A be part of the Bill;

Question put and agreed to;

New PART III A - agreed to.

New Part III B - amendment proposed

THAT, the Bill be amended by inserting the following new parts immediately after Part III -

PART III B - ESTABLISHMENT OF TEA LEVY AND TEA FUND

Establishment of Tea Levy.

24ZC (1) The Cabinet Secretary may by notice in the *Gazette*, impose a levy to be levied on tea exports and imports, to be known as the tea levy.

(2) The levy imposed through a notice under subsection (1) shall be collected by the Board at a rate not exceeding one per centum of the auction value for teas sold through the auction and at such times, being not earlier than one after the date of publication of the notice, in such a manner, as is specified in the notice.

(3) The levy on tea imports shall be charged at a rate of one hundred per centum of the value of the imported teas.

(4) The levy imposed under this section shall be levied and collected in such manner as the Cabinet Secretary may prescribe through regulations.

(5) The tea levy collected under subsection (2) shall be apportioned as follows—

- (a) fifty per centum shall be applied by the Board for income or price stabilization for tea growers;
- (b) fifteen per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board;
- (c) twenty per centum shall be remitted directly to the Tea Research Foundation;
- (d) fifteen per centum shall be applied for infrastructure development in the tea subsector on a pro rata basis.

(6) A person who fails to pay the tea levy imposed under this Act commits an offence.

Establishment of a Tea Fund

24ZD (1) There is established a Fund to be known as the Tea Fund which shall be managed by the Board.

(2) The Fund shall consist of-

- (a) monies appropriated by the National Assembly;
- (b) monies from the tea levy;
- (c) monies from a source approved by the Board;
- (d) grants and donations made to the Board.

(3) The Board shall apply the monies received into the Fund to—

- (a) income or price stabilization;
- (b) research and development.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Motion made and Question proposed -

THAT, New PART III B be read a Second Time;

Debate arising

Question put and agreed to;

Motion made and Question proposed -

THAT, New PART III B be part of the Bill;

Question put and agreed to;

New PART III B - agreed to.

New Part III C - a amendment proposed

THAT, the Bill be amended by inserting the following new parts immediately after Part III —

PART III C- ESTABLISHMENT OF THE TEA RESEARCH FOUNDATION

Establishment of the Tea Research Foundation

24ZE (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

24ZF. (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 development 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) liaise with and ensure the co-ordination of institutions, agencies and persons involved in tea research;

- (i) 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;
- (j) conduct training in industry best practice and value-addition;
- (k) ensure continuance of performance improvement in the field of tea research; and
- (l) perform such other functions as may be conferred on it by this Act or any other written law

(Chairperson, Departmental Committee on Agriculture & Livestock)

Motion made and Question proposed –

THAT, New PART III C be read a Second Time;

Debate arising

Question put and agreed to;

Motion made and Question proposed –

THAT, New PART III C be part of the Bill;

Question put and agreed to;

New PART III C - agreed to.

New Part IVA - amendment proposed

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 licensee. a

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 29G 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.

(Hon. Cecily Mbarire, MP)

Motion made and Question proposed –

THAT, New PART IVA be read a Second Time;

Debate arising

Question put and agreed to;

Motion made and Question proposed –

THAT, New PART IVA be part of the Bill;

Question put and agreed to;

New PART IVA – agreed to.

New Clause 31A - amendment proposed

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

Offences and penalties.

31A (1) A person commits an offence if the person—

- (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.

(2) A person who contravenes subsection (1) 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

(3) A person who is convicted of an offence under this Act shall in addition to any other penalty have his or her licence or registration suspended or cancelled for such a period as the Board may decide.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Motion made and Question proposed –

THAT, New Clause 31A be read a Second Time;

Debate arising

Question put and negatived;

New Clause 32A - amendment proposed

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

Offences relating to body corporate.

32A If an offence under this Act is committed by a body corporate or any other association of individuals, a director, partner or any other person involved in, or acting or purporting to act in the management of its affairs commits an offence unless that person proves that —

- (a) the act or omission constituting the offence took place without the person's knowledge; or
- (b) the person took reasonable steps to prevent the commission of the offence.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Motion made and Question proposed –

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

Debate arising

Question put and agreed to;

Motion made and Question proposed –

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

Question put and agreed to;

New Clause 32A - agreed to.

Additional New Clause 32A - amendment proposed

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

~~Conflict of~~
laws.

32A If any conflict arises between the provisions of this Act and any other Act with respect to the development of the tea crop, the provisions of this Act shall prevail.

(Hon Ben Mbanyi)

Motion made and Question proposed –

THAT, Additional New Clause 32A be read a Second Time;

Debate arising

Question put and agreed to;
Motion made and Question proposed –

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

Question put and agreed to;

Additional New Clause 32A – agreed to.

New Clause 32B – amendment proposed

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

Restraint
of
breaches
of this
Act.

32B Any person who has reason to believe that the provisions of this Act have been, are being, or are about to be violated, may petition the High Court for –

- (a) declaration that the provisions of this Act are being, have been, or are about to be contravened;
- (b) an injunction, restraining any specified person from carrying out the contravention;
- (c) a writ of mandamus against an officer or a person who has failed to perform a duty imposed by or under this Act; or
- (d) any other lawful remedy.

(Hn Ben Mmanyi)

Motion made and Question proposed –

THAT, New Clause 32B be read a Second Time;

Debate arising

Question put and negatived;

SCHEDULE

Schedule – amendment proposed

THAT, the Schedule of the Bill be amended—

- (a) by deleting the title and substituting therefore the following new title
“FIRST SCHEDULE”
- (b) in paragraph 1(3) by deleting the word “five” appearing immediately after the words “by at least” and substituting therefor the words “two thirds of the”.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment proposed;

Debate arising

Question on the amendment put and agreed to;

Further amendment proposed –

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

“FIRST SCHEDULE”

(Hbn Gthirji Gchi mu)

Amendment dropped *(On account of deletion & substitution by the Chairperson, Departmental Committee on Agriculture and Livestock)*

Further amendment proposed -

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

“FIRST SCHEDULE”

(Hbn Cecily Mbarire)

Amendment dropped *(On account of deletion & substitution by the Chairperson, Departmental Committee on Agriculture and Livestock)*

Further amendment proposed -

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

“FIRST SCHEDULE [s. 19]”

(Hbn Millie Odhiambo)

Amendment dropped *(On account of deletion & substitution by the Chairperson, Departmental Committee on Agriculture and Livestock)*

Schedule as amended - agreed to

NEW SCHEDULES

New Second Schedule - amendment proposed

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

SECOND 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.

(Chairperson, Departmental Committee on Agriculture & Livestock)

Motion made and Question proposed –

THAT, New Second Schedule be read a Second Time;

Debate arising

Question put and agreed to;

Motion made and Question proposed –

THAT, New Second Schedule be part of the Bill;

Question put and agreed to;

New Second Schedule – agreed to.

Additional New Second Schedule - amendment proposed

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

THIRD SCHEDULE [s 2]

TEA BLOCKS

BLOCK

COUNTIES

EAST

Kiambu, Murang'a, Nyeri, Kirinyaga, Embu, Tharaka-Nthi, Meru and Narok

WEST

Kericho, Bomet, Nakuru, Kisii, Nyamira,
Nandi, Kakamega, Vihiga, Trans-Nzoia,
Baringo, Bungoma, Elgeyo
Marakwet and Uasin Gishu

(Hn Gchimugithiji)

Motion made and Question proposed –

THAT, Additional New Second Schedule be read a Second Time;

Debate arising

Question put and agreed to;

Motion made and Question proposed –

THAT, Additional New Second Schedule be part of the Bill;

Question put and agreed to;

Further Amendment proposed –

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

**SECOND SCHEDULE [s. 2]
TEA BLOCKS**

BLOCK**COUNTIES**

EAST

Kiambu, Murang'a, Nyeri, Kirinyaga, Embu, Tharaka-Nithi, Meru and Narok.

WEST

Kericho, Bomet, Nakuru, Kisii, Nyamira, Nandi, Kakamega, Vihiga, Trans-Nzoia, Baringo, Bungoma, Elgeyo Marakwet and Uasin Gishu

(Hn Cecily Mbarire)

Amendment dropped *(On account of insertion by Hn Githiji Gchimugithiji)*

Further Amendment proposed –

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

**SECOND SCHEDULE [s. 2]
TEA BLOCKS**

BLOCK**COUNTIES**

EAST

Kiambu, Murang'a, Nyeri, Kirinyaga, Embu, Tharaka-Nithi, Meru and Narok.

WEST

Kericho, Bomet, Nakuru, Kisii, Nyamira, Nandi, Kakamega, Vihiga, Trans-Nzoia, Baringo, Bungoma, Elgeyo Marakwet and Uasin Gishu

(Hn Mllie Odhiambo)

Amendment dropped *(On account of insertion by Hn Githiji Gchimugithiji)*

Additional New Second Schedule - agreed to.

Clause 2 - amendment proposed -

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

Interpretation

2. In this Act —

‘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;

‘blending’ means the art of mixing of teas of different types and grades to affect the flavour and characteristics of the tea for the purposes of packing and sale;

‘Board’ means the Tea Board of Kenya established under section 3;

‘broker’ means a person or company or firm established for the purpose of negotiating the purchase or sale of tea between tea growers or tea factories and buyers for a fee;

‘buyer’ means a person, company or a firm engaged in acquiring made tea for sale in the local or export market, including export of imported tea;

‘Cabinet Secretary’ means the Cabinet Secretary for the time being responsible for matters relating to agriculture;

‘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;

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

‘county government’ has the meaning assigned to it under Article 176 of the Constitution;

‘crops inspector’ means a person appointed as an inspector in accordance with section 24Y of the Act;

‘export’ means to take tea or cause tea to be taken out of the Kenya customs territory or out of an Export Processing Zone;

‘exporter’ means a person, a firm or a corporate body engaged in the business of blending, packaging and exporting of tea in bulk or in value added form;

‘Foundation’ means the Tea Research Foundation established under section 24ZE;

‘Fund’ means the Tea Fund established under section 24ZD;

‘grower’ means any person who is cultivating tea in an area;

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

‘import’ means to bring tea into or cause to be brought into the Kenya customs territory or into an Export Processing Zone;

‘importer’ means a person, a firm or a corporate body engaged in the business of importing tea into Kenya;

‘large scale tea grower’ means a person cultivating tea in a parcel of

land above fifty acres;

'levy' means the levy imposed by the Cabinet Secretary on tea exports and imports in accordance with section 24ZC;

'licensee' means a person who holds a manufacturing licence issued under the Act;

'made tea' means the derivative from tea leaf through a manufacturing process;

'management agent' means any person that is appointed by a tea factory through a specific management contract or agreement to perform or offer professional services other than company secretary services;

'manufacture' means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products and includes the packaging, labelling, distribution of tea and tea products for sale;

'manufacturing licence' means a licence issued under section 24;

'medium scale tea grower' means a person cultivating tea in a parcel of land of between ten and fifty acres;

'person' includes a firm, a company, an association, cooperative society or a corporate body;

'small scale tea grower' means a grower cultivating tea in a parcel of land of less than ten acres;

'specialty teas' means premium teas manufactured whole leaf, semi-aerated or non-aerated and includes green, purple, white, oolong and orthodox but does not include black curl tear and cut teas;

'tea' means the plant botanically known as *camellia sinensis* and includes its seed, tea plants and the leaf, whether on the plant or detached therefrom and in the latter case, whether green tea or manufactured tea;

'tea block' means a block set out in the Third Schedule within which tea is grown;

'tea dealer' includes a warehouse operator, buyer, exporter, importer, broker, packer, manufacturer, management agent, and auction organizer;

'teafactory' means a factory that processes and manufactures tea leaf into made tea;

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

'tea packer' any person who blends, brands and packs tea into packets or containers holding not more than ten kilograms of tea intended for sale locally or for export;

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

'warehouse' means a premise used for the storage of made tea and specialty tea by a warehouse operator;

'warehouse operator' means a company registered in Kenya which is in the business of storing tea.

(Chairperson, Departmental Committee on Agriculture & Livestock – Motion moved in an amended form)

Question of the amendment proposed;

Debate arising

Question on the amendment put and agreed to

Further amendment proposed –

THAT, clause 2 of the Bill be amended by inserting the following new definition in proper alphabetical sequence –

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

(Hbn Gthirji Gchi mu)

Amendment dropped *(On account of deletion & substitution by the Chairperson, Departmental Committee on Agriculture & Livestock)*

Further amendment proposed –

THAT, clause 2 of the Bill be amended by inserting the following new definitions in proper alphabetical sequence –

“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;

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

(Hbn Cecily Mbarire)

Amendment dropped

Clause 2 as amended - agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments.

14. HOUSE RESUMED - the Fourth Chairperson in the Chair

(a) The Statute Law (Miscellaneous Amendments) (National Assembly Bill No. 15 of 2020)

Bill reported with amendment;

Motion made and Question proposed –

THAT, the House do agree with the Committee in its Report.

(The Leader of the Majority Party)

Question deferred

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

Bill reported with amendment;

Motion made and Question proposed –

THAT, the House do agree with the Committee in its Report.

(The Leader of the Majority Party)

Amendment proposed -

THAT, the motion for agreement with the Report of the Committee of the whole House be amended by inserting the words "**subject to recomital of New Clause 32A**

(Chairperson, Departmental Committee on Agriculture & Livestock)

Question of the amendment deferred.

And the time being sixteen minutes to Eleven o'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

15. HOUSE ROSE - at forty-four minutes past ten o'clock

M E M O R A N D U M

The Speaker will take the Chair on
Thursday, December 03, 2020 at 10.00am

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