



REPUBLIC OF KENYA

TWELFTH PARLIAMENT

THE SENATE

SPECIAL SITTING

VOTES AND PROCEEDINGS

WEDNESDAY, APRIL 28, 2021 AT 10:00 AM

1. The Senate assembled at Ten O'clock.
2. The proceedings were opened with a prayer said by the Speaker.
3. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following communication from the Chair -

Convening of the Special Sittings of the Senate on Wednesday, 28th and Thursday, 29th April, 2021.

“Honourable Senators,

I welcome you to this Special Sitting of the Senate. On the request of the Senate Majority Leader via letter Ref. No. SEN/SML/CORR, dated 26th April, 2021, and with the support of the requisite number of Senators, I appointed today, Wednesday, 28th April, 2021 and tomorrow, Thursday, 29th April, 2021 as days for Special Sittings of the Senate vide Gazette Notice No. 4008, dated Tuesday, 27th April, 2021.

In the Gazette Notice, I indicated that the business to be transacted at these Special Sittings shall be –

- i. Tabling of the Joint Report of the National Assembly Departmental Committee on Justice and Legal Affairs and the Senate Standing Committee on Justice, Legal Affairs and Human Rights, on the Constitution of Kenya (Amendment) Bill, 2020; and
- ii. Consideration of the Constitution of Kenya (Amendment) Bill, 2020.

Honourable Senators,

You will recall that in my Communication made on 3rd March, 2021, I stated that a Bill under Article 257 of the Constitution contemplates an expeditious process. I made reference to Article 257 (7) that states in part that such a Bill “*shall be introduced in Parliament without delay.*” I stated that this provision was drawn from the intricate process attached to the consideration of the Bill in terms of collection of signatures in support; verification of the said signatures; public participation undertaken by various County Assemblies; and ultimately, approval by the Assemblies and subsequent submission of their respective resolutions to the Speakers of the Houses of Parliament.

For the avoidance of doubt, all County Assemblies filed returns to the Speakers of the Houses of Parliament pursuant to Article 257(7) of the Constitution and paragraph (5) of the *Guidelines for Delivery by the County Assemblies* in Legal Notice No. 175 of 2019. A total of 43 County Assemblies approved the draft Bill, 3 County Assemblies rejected the Bill and 1 County Assembly abstained.

Honourable Senators,

In our consultations over the Parliamentary process on the Bill, the two Speakers and the leadership of the Houses were in agreement that the Bill was to be introduced simultaneously and as much as possible, follow a similar process. This paved the way for the introduction of the Bill in both Houses of Parliament by way of First Reading on Thursday, 4th March, 2021 and its subsequent committal to the Joint Committee of the National Assembly Departmental Committee on Justice and Legal Affairs and the Senate Standing Committee on Justice, Legal Affairs and Human Rights.

The two Committees considered the Bill, undertook public hearings and stakeholder engagements on diverse dates, concluded their deliberations and prepared a joint report on the Bill. The Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, will shortly table the Joint Report, as indicated at Order No. 2 in today’s Order Paper.

Honourable Senators,

With regard to the next steps, the Senate shall be guided by Standing Order 141 as relates to the Second Reading, Standing Order No. 145 as relates to the Committee of the Whole and Standing Order 153 as regards Third Reading of the Bill. This procedure is necessary so as to socialize the Bill to the long-standing parliamentary procedure within the Commonwealth for considering Bills. As is the practice, there is no Motion for consideration or adoption thereof, of the Report of the Joint Committee on the Bill. What is permissible are arguments in support or otherwise of the Bill, at the various stages, with the benefit of the information contained in the Joint Report. This is another long-standing practice within the Commonwealth. However, the nature of the Bill before us is one that, although subjected through the Parliamentary procedures for considering Bills, may not be amended.

Honourable Senators,

This is a momentous occasion as it is the first time that Parliament is considering a Bill to amend the Constitution by popular initiative as contemplated in the Article, 257 of the Constitution. This being the case, I am aware that almost all Senators would wish to make their contribution heard in the debate. At a Special Meeting of the Senate Business Committee held on Tuesday, 27th April, 2021, the Committee deliberated on this matter and recommends to the Senate that, at the appropriate time, a Senator may move a Motion pursuant to Standing Order 106(1) for limitation of time to ten (10) minutes for each Senator to speak, so that as many Senators as possible can contribute within the timeline specified in the Gazette Notice.

Honourable Senators,

The default is that, pursuant to Standing Order 106(4), each Senator has a maximum of twenty (20) minutes to speak, except the Mover, who is the Senate Majority Leader, and the Senate Minority Leader, who have a maximum of sixty (60) minutes each. I will however use my discretion under this Standing Order to give considerable time to the Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights when making his contribution in the debate.

At the conclusion of debate, the decision of the Senate on the Bill will be guided by Article 257(8) of the Constitution that states that “*A Bill under this Article is passed by Parliament if supported by a majority of the Members of each House*”. This provision applies to all the stages as outlined in the Order Paper.

Honourable Senators,

In accordance with Standing Order 30 (5), the business specified in the Gazette Notice, and as outlined in the Order Papers; shall be the only business before the Senate during the Special Sittings, following which the Senate shall stand adjourned until Tuesday, 11th May, 2021, at 10.00 am, pursuant to the Senate Calendar.

I thank you.”

4. **PAPER**

The following Paper was laid on the Table of the Senate -

Joint Report of the National Assembly Departmental Committee on Justice and Legal Affairs and the Senate Standing Committee on Justice, Legal Affairs and Human Rights on the Constitution of Kenya (Amendment) Bill, 2020.

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

5. **ADJOURNMENT OF THE PROCEEDINGS OF THE SENATE**

The Speaker adjourned the proceedings of the Senate at thirty - five minutes past Ten O’ clock to allow Senators time to familiarize themselves with the Report of the Joint Sittings of the National Assembly Departmental Committee on Justice and Legal

Affairs and the Senate Standing Committee on Justice, Legal Affairs and Human Rights on the Constitution of Kenya (Amendment) Bill, 2020.

6. **THE SENATE ROSE** - at thirty-five minutes past Ten O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, April 28, 2021 at 2:30 pm*

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