

(No. 066)

(822)



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (FIFTH SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**WEDNESDAY, JUNE 30, 2021 AT 2.30 P.M.**

**ORDER OF BUSINESS**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Questions and Statements

**8\*. COMMITTEE OF THE WHOLE HOUSE**

The Public Private Partnerships Bill (National Assembly Bill No. 6 of 2021)  
(The Leader of the Majority Party)

**9\*. THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 13 OF 2018)**

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

Second Reading

*(Resumption of debate interrupted on Tuesday, June 29, 2021 – Afternoon sitting)*

**10\*. THE WAQF BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2019)**

(The Leader of the Majority Party)

Second Reading

**11\*. THE SOCIAL ASSISTANCE (REPEAL) BILL (NATIONAL ASSEMBLY BILL NO. 16 OF 2020)**

(The Leader of the Majority Party)

Second Reading

**12\*. THE LANDLORD AND TENANT BILL (NATIONAL ASSEMBLY  
BILL NO. 3 OF 2021)**

(The Leader of the Majority Party)

Second Reading

**13\*. THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT)  
BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2021)**

(The Leader of the Majority Party)

Second Reading

---

**\* Denotes Orders of the Day**

---

---

...../Notices\*

# **N O T I C E S**

## **I. THE PUBLIC PRIVATE PARTNERSHIPS BILL (NATIONAL ASSEMBLY BILL NO. 6 OF 2021)**

- 1) Notice is given that the Chairperson of the Departmental Committee on Finance and National Planning intends to move the following amendments to the Public Private Partnerships Bill, 2021 at the Committee Stage-

### **CLAUSE 4**

**THAT**, the Bill be amended in clause 4 by inserting the following new subsection immediately after subsection (2)-

“(3) Without prejudice to the generality of subsection (2), the provisions of the Public Procurement and Assets Disposal Act, 2015 shall-

- (a) not apply to a public private partnership project, if all the monies for the project are from the private party;
- (b) apply if there is counterpart funding that is, including public funds, for the public private partnership project.

### **CLAUSE 6**

**THAT**, the Bill be amended in clause 6 by-

- (a) deleting paragraph (c) of sub-section (1);
- (b) deleting the word “one” appearing in paragraph (f) of subsection (1) and substituting therefor the word “two”;
- (c) inserting the following new subsections immediately after subsection 1-
  - (1A) The Committee shall co-opt the Principal Secretary responsible for the contracting authority whose public private partnership project is the subject of discussion at a meeting.
  - (1B) The Committee may co-opt any person or public officer whose knowledge or experience is necessary for the public private partnership under discussion.
  - (1C) A person who is co-opted shall not vote at a meeting and shall only be a member of the Committee for a period not exceeding one year.

### **CLAUSE 9**

**THAT**, the Bill be amended in clause 9 in subsection (1) by –

- (a) deleting paragraph (b) and substituting therefor the following new paragraphs-
  - (b) is removed from office for breach of the provisions of chapter six of the Constitution;
  - (ba) is deregistered by a professional body for professional misconduct;
- (b) inserting the following new paragraph immediately after paragraph (d)-
  - (da) is convicted of an offence under section 78 of this Act;

### **CLAUSE 16**

**THAT**, the Bill be amended in clause 16 -

- (a) in subsection (1) by inserting the following new paragraphs immediately after paragraph (c) -
  - (ca) engineering;
  - (cb) project management;
- (b) in subsection (1) by deleting the words “as the Cabinet Secretary may determine.” appearing in paragraph (d);
- (c) by inserting the following subsection immediately after sub-section (1)-
  - (1A) The Director General shall be competitively recruited and appointed by the Public Service Commission.

### **CLAUSE 17**

**THAT**, the Bill be amended in section 17 by deleting –

- (a) the word “The” appearing in subsection (1) and substituting therefor the words “Subject to section 31 and 37 of the Public Service Commission Act,2017 the”.
- (b) subsection (2).

### **CLAUSE 19**

**THAT**, the Bill be amended in section 19 by -

- (a) deleting paragraph (c) appearing in subsection (1) and substituting therefor the following new paragraphs-

(c) guiding and advising contracting authorities in project structuring, procurement and tender evaluations;

(ca) leading contracting authorities in contract negotiations and deal closure;

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

(2A) The Directorate shall issue standard bidding documents for use by contracting authorities.

### **CLAUSE 21**

**THAT**, the Bill be amended in clause 21 by-

(a) renumbering the existing provision as subsection (1);

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

(2) Without prejudice to the periods specified under the Second Schedule, a contracting authority shall not enter into a public private partnership arrangement for a period exceeding thirty years.

### **CLAUSE 22**

**THAT**, the Bill be amended in clause 22 (1) by inserting the following paragraph immediately after paragraph (j)-

(ja) ensure there is public participation on a project;

### **CLAUSE 25**

**THAT**, the Bill be amended in clause 25 –

(a) by deleting subsection (2) and substituting therefor the following new subsection-

(2) A contracting authority shall not submit a project list unless the projects are part of the national development agenda.

(b) in subsection (4) by deleting the word “periodically” and substituting therefor the words “bi-annually”.

### **CLAUSE 26**

**THAT**, the Bill be amended in clause 26 by inserting the following new subsection immediately after subsection (1) -

(1A) Subject to subsection (1), the national list shall be published on the Directorate's website and the contracting authority's website.

### **CLAUSE 33**

**THAT**, the Bill be amended in clause 33 by inserting the following new subsection immediately after subsection (1)-

(1A) The Directorate shall submit an evaluation report together with its recommendations to the Committee.

### **CLAUSE 37**

**THAT**, the Bill be amended in clause 37 by inserting the following -

(a) new paragraph immediately after subsection (1) (c)-

“(d) restricted bidding.”

(b) new subsection immediately after subsection (2)-

(2A) A contracting authority shall use standard bidding documents issued by the Directorate in all public private partnership procurements.

### **NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 44-

Restricted  
tendering

#### *Restricted tendering*

**44A.** (1) A contracting authority may use restricted tendering if any of the following conditions are satisfied-

- (a) competition for contract, because of the complex or specialized nature of the works and services is restricted to prequalified tenderers;
- (b) the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the works or services to be procured;
- (c) if there is evidence to the effect that there are only a few known suppliers of the whole market of the works or services;
- (d) an advertisement is placed, where applicable, on the procuring entity website regarding the intention to procure through limited tender.

(2) A contracting authority may engage in procurement by means of restricted tendering in such manner as may be prescribed.

**CLAUSE 56**

**THAT**, the Bill be amended in clause 56 by deleting the numbers “38, 40 or 45” appearing in subsection (1) (a) and substituting therefor the following numbers “38, 40, 44A or 45”;

**CLAUSE 60**

**THAT**, the Bill be amended in clause 60 by –

- (a) renumbering the existing provision as subsection (1);
- (b) inserting the following new subsections immediately after the existing subsection-

(2)A private party that executes a contract under subsection (1) shall commence the project within twelve months from the date of execution of the contract.

(3) If the private party fails to commence the project in accordance with subsection (2), the contracting authority shall terminate the contract and no liability shall attached to the contracting authority or the Government.

**CLAUSE 65**

**THAT**, the Bill be amended in clause 65 by-

- (a) renumbering the existing provision as (1);
- (b) inserting the words “for inclusion in the published national list of projects under section 26” at the end of subsection (1);
- (c) inserting the following new subsection immediately after subsection (1)-

(2)A county government or county corporation shall not submit a project list unless the projects are part of the County Integrated Development Plan.

**CLAUSE 69**

**THAT**, the Bill be amended section 69 by inserting the following subsection immediately after subsection (1)-

“(1A) Notwithstanding subsection (1), every project agreement shall make provision for the revenue sharing mechanisms and thresholds between a private party and the Government, where a project’s revenue performance meets and exceeds the target return on investment negotiated under a project agreement.”

**CLAUSE 72**

**THAT**, the Bill be amended in clause 72 (1) (e) by deleting the word “periodic” and substituting therefor the word “bi-annual”.

**CLAUSE 76**

**THAT**, the Bill be amended in clause 76 by inserting the following new subsections immediately after subsection (2)-

(2A) The Auditor General shall audit the accounts of a project company, where there is counterpart funding for a project including public funds.

(2B) Where all the monies for a project are provided by a private party, the accounts of the project company shall be audited annually by a reputable audit firm, appointed in consultation with the National Treasury.

**CLAUSE 82**

**THAT**, the Bill be amended in clause 82 by-

(a) inserting the following paragraph in subsection (2) immediately after paragraph (g)-

(ga) the financial reports of projects which have been completed and are being operated by a private party;

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

(3) The Cabinet Secretary shall submit a copy of the annual report to Parliament.

**SECOND SCHEDULE**

**THAT**, the Bill be amended in the Second Schedule –

(a) by inserting the words “ for a specified period of time not exceeding thirty years” at the end of item 4 ;

(b) in item 8 by inserting the words “ not exceeding thirty years” immediately after the words “specified period”

(c) by inserting the words “for a specified period not exceeding thirty years” at the end of item 9;

(d) by inserting the words “for a specified period not exceeding twenty years” at the end of item 10;



- (e) in item 12 by inserting the words “not exceeding 30 years” immediately after the words “specified period”;
- (f) in item 14 by inserting the words “not exceeding 30 years” immediately after the words “specified period of time”;
- (g) in item 16 by inserting the words “but not exceeding thirty years” immediately after the words “over time”.

**2) Notice is given that the Member for Kikuyu (Hon. Kimani Ichung’wah) intends to move the following amendments to the Public Private Partnerships Bill, 2021 at the Committee Stage-**

**NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 21-

Attorney General to certify proposed projects.

**21A.** (1) Subject to the provisions of Part III and Part VI, the Attorney General shall have power to determine whether a proposed project concerns county government.

(2) A contracting authority or county government which intends to enter into a public private partnership shall apply to the Attorney General for a determination as to whether the proposed project concerns a county government.

(3) The Attorney General shall issue a certificate of the determination in accordance with this section.

**NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 59-

Approval  
National  
Assembly  
of  
National  
Government  
Projects.

by **59A.** (1) Subject to certificate issued under section 21A, a contracting authority shall seek and obtain the approval of the National Assembly prior to execution of a project agreement.

(2) The contracting authority shall submit a copy of the public private partnership agreement, together with the certificate issued under section 21A and, the project financial and risk assessment reports to the National Assembly.

(3) The National Assembly shall consider and approve or reject the project agreement within ninety days.

(4) The approval by the National Assembly may include its reservations or recommendations.

(5) If the National Assembly does not make a decision on the project agreement within the ninety days, it shall be deemed to have been approved.

(6) The parties to a public private partnership shall review the Project agreement to take into consideration any reservations or recommendations made by the National Assembly before execution.

(7) The Clerk of the National Assembly shall—

(a) keep a register of all public private partnership agreements submitted; and

(b) cause a list of all public private partnerships to be published on Parliament's website.

### **NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 65-

Approval by  
the Senate of  
county  
government  
Projects.

**65A.** (1) Subject to certificate issued under section 21A and section 64, a county government shall seek and obtain the approval of the Senate prior to execution of a project agreement.

(2) The Senate shall consider and approve or reject the project agreement within ninety days.

(3) The approval by the Senate may include its reservations or recommendations.

(4) The county government shall submit a copy of the public private partnership agreement, together with the certificate issued under section 21A and, the project financial and risk assessment reports to the Senate.

(5) If the Senate does not make a decision on the project agreement within the ninety days, it shall be deemed to have been approved.

(6) The parties to a public private partnership shall review the Project agreement to take into consideration any reservations or recommendations made by the Senate before execution.

(7) The Clerk of the Senate shall—

(a) keep a register of all public private partnership agreements submitted; and

(b) cause a list of all public private partnerships to be published on Parliament's website.

3) Notice is given that the Member for Garissa Township (Hon. Aden Duale) intends to move the following amendments to the Public Private Partnerships Bill, 2021 at the Committee Stage-

**CLAUSE 62**

**THAT**, the Bill be amended in clause 62 by-

- (a) renumbering the existing provision as (1);
- (b) by inserting the following new subsection (2)-
  - (2) Without prejudice to the generality of sub-section (1), the Cabinet Secretary responsible for a contracting authority that enters into a power producing agreement with a private party under this Act shall submit the agreement to the National Assembly for approval.

**CLAUSE 76**

**THAT**, the Bill be amended in clause 76 by inserting the following new subsection immediately after subsection (4)-

- (5) Pursuant to Section 7(1) (g) of the Public Audit Act, the Auditor General shall undertake an annual performance audit on all engagements under power purchase agreements, existing ones and new ones, to –
  - (a) examine the economy, efficiency and effectiveness with which public money has been expended pursuant to Article 229 of the Constitution; and,
  - (b) evaluate, whether the citizen has gotten value for money in the power purchase framework or engagement and submit reports to the National Assembly.

**CLAUSE 86**

**THAT**, the Bill be amended in clause 86 by inserting the following new subsection immediately after sub-section (4)-

- (5) Any power producing agreement that had been entered into between a contracting authority and the companies listed in the Fourth Schedule, before the commencement of this Act shall be submitted to the National Assembly for approval within nine months of coming into force of this Act.
- (6) Subject to sub-section (5) any agreement which is not submitted shall become void by attrition of time.
- (7) The Speaker shall notify the House in accordance with its Standing Orders, whenever an agreement is submitted.
- (8) The National Assembly shall consider and make a decision within ninety days from the date of tabling of the agreement in the House, failure to which the agreement shall be deemed to have been approved.
- (9) The House may in accordance with the Standing Orders extend the period under sub section (8) by a further period of thirty days.

**NEW SCHEDULE**

**THAT**, the Bill be amended by inserting the following new schedule immediately after the Third Schedule-

**FOURTH SCHEDULE**

(Section 86)

**LIST OF INDEPENDENT POWER PRODUCING COMPANIES**

1. Iberafrica
  2. Mumias Sugar Company
  3. Orpower4-Plant I
  4. Orpower4-Plant II
  5. Orpower4-Plant III
  6. Tsavo Power
  7. Rabai Power
  8. Imenti Tea-Hydro
  9. Thika Power
  10. Gikira Hydro Power
  11. Gulf Power
  12. Triumph Power
  13. Orpower4- Plant IV
  14. Biojoule
  15. Regen Terem
  16. Chania-KTDA
  17. Gura-KTDA
  18. Strathmore Solar
- 

...../Notices\*(Cont'd)

## **LIMITATION OF DEBATE**

The House resolved on Wednesday, February 10, 2021 as follows-

### **II. Limitation of Debate on Bills sponsored by Parties or Committees**

**THAT**, each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by the relevant Committee), and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each (if the Bill is not sponsored by either of them); and **THAT** priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in **THAT** order.

### **Limitation of Debate on Committee Reports**

- III. THAT**, each speech in a debate on **Committee Reports (except for Reports of Audit Committees)**, including a Report of a Joint Committee of the Houses of Parliament or any other Report submitted to the House for which limitation of time has not been specified, shall be limited as follows:- A maximum of two and a half hours, with not more than twenty (20) minutes for the Mover in moving and five (5) minutes for any other Member speaking, **including** the Leader of the Majority Party and the Leader of the Minority Party and the Chairperson of the relevant Committee (if the Committee Report is not moved by the Chairperson of the relevant Committee), and **THAT** ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; and further **THAT** priority in speaking shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in **THAT** order.
- 

...../Notice Paper\*

# **NOTICE PAPER**

## **Tentative business for**

**Wednesday (Evening), June 30, 2021**

---

*(Published pursuant to Standing Order 38(1))*

It is notified that the House Business Committee has approved the following ***tentative*** business to appear in the Order Paper for Wednesday (Evening), June 30, 2021-

**A. MOTION - INSPECTION VISITS TO ASCERTAIN THE IMPACT OF REVENUE ENHANCEMENT INITIATIVES ON REVENUE COLLECTION**

(The Chairperson, Departmental Committee on Finance and National Planning)

*(Question to be put)*

**B. MOTION - APPROVAL OF NOMINEES TO TWO CONSTITUENCY DEVELOPMENT FUND COMMITTEES**

(The Chairperson, Select Committee on the National Government Constituencies Development Fund)

*(Subject to Notice of Motion being given on Wednesday, June 30, 2021 - Afternoon sitting)*

**C. THE RADIOGRAPHERS BILL (NATIONAL ASSEMBLY BILL NO. 47 OF 2019)**

(The Chairperson, Departmental Committee on Health)

Second Reading

**D. THE JUDICIAL SERVICE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2020)**

(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

**E. THE FOREIGN SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2021)**

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

Second Reading

**F. THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO. 15 OF 2018)**

(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

**G. THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILL NO. 35 OF 2018)**

(The Chairperson, Committee on National Cohesion and Equal Opportunity)

Second Reading

**H. MOTION - REPORT ON THE IMPLEMENTATION STATUS OF THE REPORT ON A PETITION REGARDING DEPLORABLE WORKING CONDITIONS OF WORKERS AT THE KWALE INTERNATIONAL SUGAR COMPANY LIMITED**

(The Chairperson, Committee on Implementation)

---

# **APPENDIX**

## **ORDER NO.7 - QUESTIONS**

---

Pursuant to the provisions of Standing Order 42A (5) the following Members will ask questions for reply before the specified Departmental Committees-

### **QUE NO.**

### **ORDINARY QUESTIONS**

207/2021

**The Member for Konoin (Hon. Brighton Yegon, MP) to ask the Cabinet Secretary for Labour and Social Protection: -**

- (i) Could the Cabinet Secretary state the immediate plans put in place by the Ministry to address the impending retrenchment of over 50,000 tea pluckers in Bomet and Kericho Counties in view of introduction of mechanization of tea plucking by multinationals such as M/s. *Uniliver Tea [K] Ltd, James Finlay [K] Ltd, Williamson Tea [K]*?
- (ii) What measures has the Ministry put in place to ensure that the implementation of the planned mechanization does not lead to collapse of the Small and Medium Sized Enterprises [SMEs] and the overall economy of the region?
- (iii) What steps has the Ministry taken to safeguard the production of high quality tea in the region, considering that the hand-plucked tea is of superior quality and fetches higher prices as compared to the mechanically plucked product which is said to be of low quality?
- (iv) What mitigation steps, if any, has the Ministry caused the multinationals firms to put in place so as to protect the health of tea workers given the health risks posed by excessive and continuous exposure to hazardous fumes emitted by the tea plucking machines and continued use of the machines?

*(To be replied before the Departmental Committee on Labour and Social Welfare)*

211/2021

**The Member for Belgut (Hon. Nelson Koech, MP) to ask the Cabinet Secretary for Education: -**

- (i) With regard to the recent form-one intakes, could the Cabinet Secretary explain the policy pertaining to students who are unable to travel to the secondary schools of their admission due to long distance and what is the role of the schools' management on such admissions?



- (ii) Could the Cabinet Secretary further consider advising all County and Sub-County schools to admit students who are within their locality but are unable to travel to schools in distant areas?
- (iii) What measures has the Ministry put in place to address the huge number of students admitted to secondary schools which lack necessary infrastructure to accommodate the expansion, particularly students admitted to *Belgut Starehe Boys* and *Belgut Starehe Girls* considering that these are special schools initially meant for orphans and needy students from Belgut Constituency?
- (iv) What immediate steps has the Ministry taken to ensure that huge number of students admitted to *Belgut Starehe Boys* and *Belgut Starehe Girls* are provided with the necessary facilities in form of dormitories, classes and teaching staff?

*(To be replied before the Departmental Committee on Education and Research)*

**216/2021      The Member for Changamwe (Hon. Omar Mwinyi, MP) to ask the Cabinet Secretary for Tourism and Wildlife: -**

What measures has the Ministry put in place to revive the *Akamba* Handcraft Industry and *Soapstone* Carving Business which is on the verge of collapse due to the myriad challenges facing the cottage industry?

*(To be replied before the Departmental Committee on Sports, Culture and Tourism)*

**217/2021      The Member for Mwingi West (Hon. Charles Ngusya, MP) to ask the Cabinet Secretary for Labour and Protection: -**

- (i) Could the Cabinet Secretary explain why the *Elderly Persons' Cash Transfer Programme* database records has not been updated since 2017 in Mwingi West Constituency?
- (ii) What urgent steps is the Ministry taking to rectify errors, update databases and synchronize all data following the migration from manual exercise to the new bank card-based payment, including reinstatement of more than 176 beneficiaries who were left out during the 2018 migration?
- (iii) Could the Cabinet Secretary state the amount of money allocated to the said *Programme* with respect to Mwingi West Constituency during the Financial Years 2016/2017, 2017/2018, 2018/2019, 2019/2020 and 2020/2021 and explain how the funds were utilized?

*(To be replied before the Departmental Committee of Labour and Social Welfare)*

218/2021

**The Member for Rabai (Hon. Kamoti Mwamkale, MP) to ask the Cabinet Secretary for Water, Sanitation and Irrigation: -**

- (i) What is the status of construction of *Mzima II Water Supply Project* and when is it expected to be completed considering the dire need of water supply in Rabai Constituency and surrounding areas?
- (ii) Could the Cabinet Secretary explain whether there are any other plans to expand the capacity of old *Mzima Water Supply Project* in Rabai Constituency, which was constructed before independence and can barely support the current population?
- (iii) Could the Cabinet Secretary also explain the status of completion of *Mwache Dam* in Kwale County, which is expected to serve the residents of *Kwale, Mombasa and Kilifi Counties*?

*(To be replied before the Departmental Committee on Environment and Natural Resources)*

219/2021

**The Member for Kwanza (Hon. Ferdinand Wanyonyi, MP) to ask the Cabinet Secretary for Water, Sanitation and Irrigation: -**

- (i) Could the Cabinet Secretary provide the status of de-siltation of *Kapsito, Aseka and Marinda* dams in Kwanza Constituency?
- (ii) What other projects has the Ministry planned regarding construction of dams and water pans in Kwanza Constituency so as to provide water for irrigation and household use?

*(To be replied before the Departmental Committee on Environment and Natural Resources)*

---