



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FIFTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

SPECIAL SITTING

WEDNESDAY, MAY 19, 2021

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

The Member for Mvita, Hon. Abdullswamad Sheriff Nassir, MP requested a Statement pursuant to Standing Order 44(2)(c) from the Chairperson of the Departmental Committee on Administration and National Security regarding police brutality against peaceful demonstrations by the residents of Mombasa on the ongoing conflict in the Middle East.

5. **MOTION – CONSIDERATION OF THE PUBLIC FINANCE MANAGEMENT (NATIONAL DROUGHT EMERGENCY FUND) REGULATIONS, 2021**

Motion made and question proposed -

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (National Drought Emergency Fund) Regulations, 2021, laid on the Table of the House on Thursday, May 13, 2021, and pursuant to the provisions of section 24(4) of the Public Finance Management Act, 2012, approves the Public Finance Management (National Drought Emergency Fund) Regulations, 2021, published as Legal Notice No. 27 of 2021.

(The Chairperson, Committee on Delegated Legislation)

There being no debate arising;

Question put and agreed to

6. **MOTION – CONSIDERATION OF EXEMPTION FROM INCOME TAX FOR AIRLINES WITH GOVERNMENT OF KENYA SHAREHOLDING OF AT LEAST 45 PERCENT AND ITS SUBSIDIARIES**

Motion made and question proposed -

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of Legal Notice No. 27 of 2021 on the Exemption from Income Tax for Airlines with Government of Kenya Shareholding of at least 45% and its subsidiaries, laid on the Table of the House on Thursday, May 13, 2021, and pursuant to the provisions of section 13(2) of the Income Tax Act approves Legal Notice No. 27 of 2021 on Exemption from Income Tax for Airlines with Government of Kenya Shareholding of at least 45% and its subsidiaries.

(The Chairperson, Committee on Delegated Legislation)

Debate arising;

Rising in her place on a point of Order under Standing Order 95, the nominated Member (Hon. Jeniffer Shamalla, MP) claimed to move that “the Mover be now called upon to reply.”

And, the First Chairperson acceding to the claim;

Question put and agreed to;

Mover replied;

Question put and agreed to.

7. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read

IN THE COMMITTEE

The Second Chairperson in the Chair

The Narcotics, Drugs and Psychotropic Substances (Control) (Amendment) Bill
(National Assembly Bill No. 27 of 2020)

Clause 3 - Amendment Proposed to Clause 3

THAT, clause 3 of the Bill be amended by deleting the proposed amendments to section 3 and substituting therefor the following —

Amendment of section 3 of No. 4 of 1994. **3.** Section 3 of the principal Act is amended by deleting subsection—
(2) A person guilty of an offence under subsection (1) shall be liable —
(a) in respect of cannabis, where the person satisfies the court that the cannabis was intended solely for his own consumption, to imprisonment to a term of not more than five years or to a fine of not more than one hundred thousand shillings;

(b) in respect of a narcotic drug or psychotropic substance, other than cannabis, where a person is in possession of less than one gram, to a fine of not less than five million shillings, or to imprisonment to a term of not less than five years, or to both such fine and imprisonment; and

(c) to, in addition to the sentences in paragraph (a) and (b) respectively, committal to appropriate court appointed treatment programme or to voluntary submission to a rehabilitation programme for a period not less than six months, where the court deems fit.

(Chairperson, Departmental Committee on Administration and National Security)

Question on the amendment proposed;

Clause 3 - Further Amendment Proposed to Clause 3

THAT, Clause 3 of the Bill be amended in the proposed amendments to section 3—

(a) in the proposed paragraph (b) (i)—

(i) by deleting the words “twenty million” and substituting therefor the words “one million”; and

(ii) by deleting the words “imprisonment for life” and substituting therefor the words “imprisonment to a term of not more than five years”.

(b) in the proposed paragraph (b) (ii)—

(i) by deleting the words “five million “and substituting therefor the words “five hundred thousand”; and

(ii) by deleting the words “five years” and substituting therefor the words “two years”.

(Hon. Esther Passaris, MP)

Further amendment **withdrawn** by Hon. Esther Passaris, MP

Debate arising on the Chairperson’s amendment;

Question on the Chairperson’s amendment put and agreed to;

Clause 3 - As amended by the Chairperson agreed to

Clause 4 - Amendment Proposed to Clause 4

THAT, clause 4 of the Bill be amended in the proposed new section 4 by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) in respect of any narcotic drug or psychotropic substance—

(i) where the person is in possession of between 1—100 grams, to a fine of not less than thirty million shillings or to imprisonment for a term of thirty years, or to both such fine and imprisonment;

(ii) where the person is in possession of more than 100 grams, to a fine of not less than fifty million shilling or three times the market value of the narcotic drug or psychotropic substance, whichever is greater, or to imprisonment for a term of fifty years, or to both such fine and imprisonment.”

(Chairperson, Departmental Committee on Administration and National Security)

Debate arising;

Question put and agreed to;

Clause 4 - As amended agreed to

Clause 5 - Amendment Proposed to Clause 5

THAT, clause 5 of the Bill be amended by inserting the following new section immediately after the proposed new section 4B—

Records of premises. **4C.** (1) A person who, being the owner, occupier or concerned in the management of any premises, shall keep a record in the premises of every tenant or occupier who occupies the premises.

(2) The information contained in the records under subsection (1) shall include the name, address and any other particulars of the tenant or occupier of the premises.

(3) A person who, being the owner, occupier or concerned in the management of any premises and who fails to comply with this section, or who enters false information in the records, commits an offence and shall be liable on conviction to a fine of not less than one million shillings or to imprisonment for a term not less than two years, or to both.

(Hon. Jennifer Shamalla, MP)

Amendment **withdrawn** by Hon. Jennifer Shamalla, MP

Clause 5 - Further Amendment Proposed to Clause 5

THAT, Clause 5 of the Bill be amended in the proposed amendments to section 4 by inserting the following new section immediately after section 4B—

Use of narcotic drugs for medicinal purposes. **4C.** (1) Subject to subsections (2), (3) and (4), a person may use a prohibited drug or substance under this Act for medicinal purposes.

(2) A medical doctor may prescribe a prohibited drug or substance under this Act to a patient for medicinal use, having certified that there is need for use such a drug or substance and that there are no other medical options for the patient.

(3) A prohibited drug or substance under sub section (2) shall only be administered in a classified health facility.

(4) The Cabinet Secretary, in consultation with the Cabinet Secretary responsible for matters relating to Health shall make regulations generally for the better carrying into effect the provisions in this section.

(5) Without prejudice to the generality of subsection (4), and in particular, the Cabinet Secretary may by regulations make provision for any of the following matters —

- (a) drugs and substances to be classified as medicinal;
- (b) medical conditions for which such drugs and substances may be used;
- (c) classification of hospitals where such drugs and substances may be administered;

(Hon. Esther Passaris, MP)

Further amendment **withdrawn** by Hon. Esther Passaris, MP

Clause 5 - Agreed to (Not Amended)

Clause 6 - Amendment Proposed to Clause 6

THAT, the Bill be amended in clause 6—

(a) in the proposed amendment to section 5, by deleting —

(i) the proposed paragraph (c) (ii); and

(ii) the proposed paragraph (d).

(b) by inserting the following new clauses immediately after clause 6—

Insertion of sections 5A and 5B into No.4 of 1994.

6A. The principal Act is amended by inserting the following new sections immediately after section 5—

Information to be kept by an owner, occupier or a person concerned with the management of a premise.

5A. (1) An owner, occupier or person concerned with the management of any premises, shall keep a register in his premises, and shall enter or cause to be entered in the register the name and address of every tenant and occupier who occupies

the premises, and such other particulars as may be prescribed.

(2)An owner, occupier or person concerned with the management of any premises, shall enter or cause to be entered regularly in a book kept for the purpose, all such particulars, other than particulars prescribed in respect of the register required under subsection (1) to be kept, as may be prescribed.

(3) A person who fails to comply with this section, or who makes or causes or permits to be made in any register or book required in this section to be kept, any entry which he knows or has reason to believe to be false, shall be guilty of an offence and is liable to a fine of not less than one million shillings or to a term of imprisonment of not less than two years, or both such fine and imprisonment.

Offences relating to operation of clandestine laboratory.

5B (1) Subject to this Act, any person who—

(a) operates a clandestine laboratory;

(b) being the owner, occupier or person concerned with the management of any premises,

permits the premises to be used for the purpose of operating a clandestine laboratory shall be guilty of an offence and is liable to a fine of not less than twenty million shillings or a term of imprisonment of not less than twenty years, or both such fine and imprisonment.

(2)It shall be a defence if a person who is an owner, occupier or a person concerned with the management of any premises, complies with section 5A

(Chairperson, Departmental Committee on Administration and National Security)

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed further amendment by Hon. Jennifer Shamalla **defeated**;

Clause 6 - As amended by the Chairperson agreed to

Clause 7 - Amendment Proposed to Clause 7

THAT, the Bill be amended—

(a) in Clause 7, by deleting the proposed amendment to section 17 and substituting therefor the following —

Insertion of section 17 A into No. 4 of 1994. Penalty for law enforcement officers and public officers.

7. The principal Act is amended by inserting the following new section immediately after section 17—
17A. (1) A law enforcement officer or a public officer who aids or abets any offence under this Act including through concealing the commission of any offence or colluding with any person suspected of committing an offence under this Act, commits an offence and shall be liable upon conviction to a fine of not less than twenty million shillings and imprisonment for a term of not less than twenty years.
(2) Any person who, being employed as a law enforcement officer or a public officer, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another, commits an offence and shall, upon conviction, be liable to a fine of not less than three hundred thousand shillings or imprisonment for a term of not less than five years, or to both.”

(b) by inserting the following new clause immediately after clause 7—

Amendment of section 58 Of No.4 of 1994.

7A. Section 58 of the principal Act is amended in subsection (2) by deleting the words “Attorney-General” and substituting therefor the words “Director of Public Prosecutions”

(Chairperson, Departmental Committee on Administration and National Security)

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed further amendment by Hon. Jennifer Shamalla **defeated**;

Clause 7 - As amended by the Chairperson agreed to

Clause 8 - Amendment Proposed to Clause 8

THAT, Clause 8 of the Bill be amended in the proposed section 59 (3) by deleting the word “shall “and substituting therefor the word “may”.

(Chairperson, Departmental Committee on Administration and National Security)

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 8 - As amended agreed to

Clause 9 - Amendment Proposed to Clause 9

THAT, Clause 9 of the Bill be amended—

(a) in the proposed section 80A by deleting the words “to a Chief Magistrate or” appearing in subsection (1);

(b) in the proposed section 80B , by inserting the following new subsection immediately after subsection (1)—

(1A) A person who conceals or fails to disclose information that is relevant in investigation, prosecution of another person for an offence committed under this Act, commits an offence.”

(Chairperson, Departmental Committee on Administration and National Security)

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 9 - As amended agreed to

Clause 10 - Amendment Proposed to Clause 10

THAT, the Bill be amended by inserting the following new clauses immediately after clause 10—

Amendment of section 81 of No. 4 of 1994. **10A.** The principal Act is amended in section 81 by deleting paragraph (b).

Insertion of section 85 A into No. 4 **10B.** The principal Act is amended by inserting the

of 1994.

following new section immediately after section 85—

Disqualification if convicted of an offence under this Act.

85A. A person who is convicted of an offence under this Act shall be disqualified from being elected or appointed as a public officer for thirty years after the conviction.

Amendment of the First Schedule to No. 4 of 1994.

10C. The principal Act is amended by inserting the word “tramadol” in the First Schedule.

Amendment of the Second Schedule to No. 4 of 1994.

10D. The principal Act is amended by inserting the word “ketamine” in the Second Schedule.

(Chairperson, Departmental Committee on Administration and National Security)

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 10 - As amended agreed to

Clause 11 - Amendment Proposed to Clause 11

THAT, the clause 11 of the Bill be amended by deleting the proposed new Fourth Schedule and inserting the following new Fourth Schedule—

FOURTH SCHEDULE (section 2)

Ergometrine

Anthranilic acid

Ergotamine

Ethyl ether

Isosafrole

Hydrochloric acid

Lysergic acid

Methyl ethyl ketone

3, 4-methylenedioxyphenyl-2-propanone

Phenylacetic acid

1-phenyl-2-propanone

Piperidine

Piperonal

Potassium permanganate

Pseudophedrine

Sulphuric acid

Safrole

Toluene

The salts of the substances listed in this Schedule whenever the existence of such salts is possible.

(Hon. Jennifer Shamalla, MP)

Amendment **withdrawn** by Hon. Jennifer Shamalla, MP

Clause 11 - Agreed to (Not Amended)

New Clause 12 - New Clause 12 proposed

THAT, the Bill be amended by inserting the following new clauses immediately after clause 11-

Amendment of the First Schedule of No. 5 of 1994. **12.** The principal Act is amended in the First Schedule by inserting the following new narcotic drug in its proper alphabetic sequence-
“Tramadol”

(Hon. Jennifer Shamalla, MP)

Proposed New Clause 12 **withdrawn** by Hon. Jennifer Shamalla, MP

New Clause 12 - Not Introduced into the Bill

New Clause 13 - New Clause 13 proposed

THAT, the Bill be amended by inserting the following new clauses immediately after clause 11-

Amendment of the Second Schedule of No. 5 of 1994. **13.** The principal Act is amended in the Second Schedule by inserting the following new psychotropic substance in its proper alphabetic sequence-
“Ketamine”

(Hon. Jennifer Shamalla, MP)

Proposed New Clause 13 **withdrawn** by Hon. Jennifer Shamalla, MP

New Clause 13 - Not Introduced into the Bill

Clause 2 - Amendment Proposed to Clause 2

THAT, the Bill is amended by deleting the proposed amendments to clause 2 and substituting therefor the following—

Amendment of
Section 2 of No.4 of
1994.

2. Section 2 of the Narcotics, Drugs and Psychotropic Substances (Control) Act, (in this Act referred to as the “principal Act”) is amended —

(a) by inserting the following new definitions in their proper alphabetical sequence—

“**cabinet secretary**” means the Cabinet Secretary for the time being responsible for matters relating to interior;

“**clandestine laboratory**” means —

(a) the purchase or procurement of chemicals, supplies, equipment, or laboratory location for the illegal manufacture of specified controlled substances;

(b) the transportation or arranging for the transportation of chemicals, supplies, or equipment for the illegal manufacture of controlled substances;

(c) the setting up of equipment or supplies in preparation for the illegal manufacture of specified controlled substances;

(d) the activity of compounding, synthesising, concentrating, purification, separating, extracting, or other physical or chemical processing of a substance, including a controlled substance precursor, or the packaging, repackaging, labelling, or relabelling of a container holding a substance that is a product of any of these activities, when the substance is to be used for the illegal manufacture of specified controlled substances;

(e) the illegal manufacture of specified controlled substances; or

(f) the distribution, diversion or disposal of chemicals, equipment, supplies, or products used in or produced by the illegal manufacture of specified controlled substances.

“**market value**” means value of narcotic drug, psychotropic substance, prohibited plant, precursor or chemicals;

“**public officer**” means an officer, employee or member of a public body, including one that is unpaid, part-time or temporary;

“**precursor chemicals**” means a substance frequently used in the illicit manufacture of narcotic drugs or psychotropic substances as specified in the fourth schedule to this Act;

“**law enforcement officer**” means any person who is responsible for prevention, investigation, apprehension or deterrence of persons suspected to have committed an offence under this Act;

(b) by inserting the following subsection immediately after subsection (1)—

(2) Despite subsection (1), references in this Act to the expression “Minister” shall be construed to mean “Cabinet Secretary”

(Chairperson, Departmental Committee on Administration and National Security)

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed further amendment by Hon. Jennifer Shamalla **defeated**;

Clause 2 - As amended by the Chairperson agreed to

Title - Agreed to

Clause 1 - Agreed to

Bill to be Reported with Amendments

8. **HOUSE RESUMED** - the Second Chairperson in the Chair

The Narcotics, Drugs and Psychotropic Substances (Control) (Amendment) Bill (National Assembly Bill No. 27 of 2020)

Bill reported with amendments;

Motion made and Question proposed –

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

(Chairperson, Departmental Committee on Administration and National Security)

Question put and agreed to.

Motion made and Question proposed –

THAT, the Narcotics, Drugs and Psychotropic Substances (Control) (Amendment) Bill (National Assembly Bill No. 27 of 2020) be now read a Third Time.

(Chairperson, Departmental Committee on Administration and National Security)

Question put and agreed to.

Bill read a Third Time and **Passed**.

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

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Public Private Partnerships Bill (National Assembly Bill No. 6 of 2021) be now read a Second Time.

(The Leader of the Majority Party – 25.03.2021)

Debate interrupted on Wednesday, May 19, 2021 (Morning Sitting) resumed;

Rising on a Point of Order under Standing Order 95, the Member for Ndaragua (Hon. Jeremiah Kioni) claimed to move that the Mover be called upon to reply;

The Chair acceded to the request;

Question that the Mover be called upon to reply put and agreed to.

Mover replied;

Question on the Motion put and agreed to;

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

And the time being fifteen minutes to Five O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

10. **HOUSE ROSE** - at fifteen minutes to Five O'clock.

M E M O R A N D U M

The Speaker will take the Chair on:-
Tuesday, June 8, 2021 at 2.30pm

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