



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - FIFTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, JULY 07, 2021 - AFTERNOON SITTING

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

The Speaker issued the following communication:

THE INDIVIDUAL MEMBERS' BILLS PENDING BEFORE COMMITTEES OF THE HOUSE

Honourable Members, you will recall that in September 2020, I did update the House on the status of Bills sponsored by individual Members that were pending before various Committees of the House. At the time, forty-five (45) such Bills had been published and were at different stages of processing, with twenty-four (24) Bills having been considered by Committees and reports thereof *tabled* in the House.

Honourable Members, on the same breath, I wish to apprise the House that, as at today, sixty (60) individual Members' Bills are currently before the House at various stages of consideration. For clarity, the said Bills are at the following various stages -

- (1) Five (5) are awaiting Committee of the Whole House;
- (2) Four (4) are currently undergoing Second Reading;
- (3) Fifty (50) are awaiting Second Reading; and,
- (4) One (1) is awaiting First Reading.

Honourable Members, of interest are the fifty-three (53) Bills that are awaiting Second Reading.

During its regular review of business pending before the House for purposes of prioritizing consideration, the House Business Committee observed that out of the fifty-three (53) Bills awaiting Second Reading, Reports on consideration of Bills by the

relevant committees pursuant to the provisions of Standing Order 127, in respect of twenty-seven (27) Bills were yet to be *tabled* in the House as here below-

(1) Bills before the Departmental Committee on Communication, Information and Innovation -

- (i) The Information Communication Technology Practitioners Bill (NA Bill No. 38 of 2020) by the Hon. Godfrey Osotsi, MP, which was read a First Time on 22nd December 2020; and,
- (ii) The Computer Misuse and Cybercrimes (Amendment) Bill (NA Bill No. 11 of 2021) by the Hon. Aden Duale, EGH, MP, which was read a First Time on 9th June 2021.

(2) Bills before the Departmental Committee on Education and Research -

- (i) The Higher Education Loans Board (Amendment) Bill (NA Bill No. 29 of 2020) by the Hon. Gideon Keter, MP, having been read a First Time on 8th October 2020; and,
- (ii) The Higher Education Loans Board (Amendment) Bill (NA Bill No. 37 of 2020) by the Hon. John Mwirigi, MP, which was read a First Time on 9th June 2021.

(3) Bills before the Departmental Committee on Finance and National Planning -

- (i) The Public Finance Management (Amendment) Bill (NA Bill No. 22 of 2019) by the Hon. Kimani Ichung'wah, MP, which was read a First Time on 2nd May 2019;
- (ii) The County Governments' Retirement Scheme Bill (NA Bill No. 29 of 2019) by the Hon. Chachu Ganya, MP, having been read a First Time on 8th May 2019;
- (iii) The Parliamentary Pensions (Amendment) (No. 2) Bill (NA Bill No. 56 of 2019) by the Hon. Wangari Mwaniki, MP, which was read a First Time on 24th July 2019;
- (iv) The Pensions (Amendment) Bill (NA Bill No. 26 of 2020) by the Hon. Didmus Wekesa Barasa, MP, which was read a First Time on 10th September 2020;
- (v) The Public Procurement and Asset Disposal (Amendment) Bill (NA Bill No. 34 of 2020) by the Hon. Richard Tongi, MP having been read a First Time on 22nd December 2020;
- (vi) The Public Debt Management Authority Bill (NA Bill No. 36 of 2020) by the Hon. Sakwa J. Bunyasi, MP, which was read a First Time on 22nd December 2020;
- (vii) The Kenya Deposit Insurance (Amendment) Bill (NA Bill No. 43 of 2020) by the Hon. Abdul Rahim Dawood, MP, which was read a First Time on 9th June 2021;
- (viii) The Central Bank of Kenya (Amendment) Bill (NA Bill No. 47 of 2020) by the Hon. Gideon Keter, MP, having been read a First Time on 25th January 2021;
- (ix) The Public Procurement and Asset Disposal (Amendment) (No.3) Bill (NA Bill No. 49 of 2020) by the Hon. Benjamin Gathiru Mwangi, MP which was read a First Time on 9th June 2021; and
- (x) The Poverty Eradication Authority Bill (NA Bill No. 13 of 2020) by the Hon. John Waluke Koyi, MP, having been read a First Time on 11th June 2021.

(4) Bills before the Departmental Committee on Health -

- (i) The Kenya Food and Drugs Authority Bill (NA Bill No. 31 of 2019) by the Hon. (Dr.) Robert Pukose, MP, which was read a First Time on 2nd May 2019;
- (ii) The Radiographers Bill (NA Bill No. 47 of 2019) by the Hon. Sabina Chege, MP, which was read a First Time on 11th September 2019;
- (iii) The Health (Amendment) Bill (NA Bill No. 28 of 2020) by the Hon. Alice Wahome, MP, which was read a First Time on 8th October 2020;
- (iv) The Community Health Workers Bill (NA Bill No. 30 of 2020) by the Hon. Martin Peters Owino, MP, which was read a First Time on 22nd December 2020;
- (v) The Pharmacy and Poisons (Amendment) Bill (NA Bill No. 1 of 2021) by the Hon. Alfred Kiptoo Keter, MP, which was read a First Time on 9th June 2021; and,
- (vi) The Health (Amendment) Bill (NA Bill No. 14 of 2021) by the Hon. Mwambu Mabongah, MP, having been read a First Time on 9th June 2021.

(5) Bills before the Departmental Committee on Justice and Legal Affairs -

- (i) The Constitution of Kenya (Amendment) (No.6) Bill (NA Bill No. 76 of 2019) by the Hon. Vincent Mogaka, MP, which was read a First Time on 4th December 2019;
- (ii) The Sexual Offences (Amendment) Bill (NA Bill No. 24 of 2020) by the Hon. Gathoni Wamuchomba, MP, having been read a First Time on 10th September 2020;
- (iii) The Constitution of Kenya (Amendment) Bill (NA Bill No. 40 of 2020) by the Hon. Jeremiah Kioni, MP, which was read a First Time on 22nd December 2020;
- (iv) The Criminal Procedure Code (Amendment) Bill (NA Bill No. 41 of 2020) by the Hon. Nelson Koech, MP, which was read a First Time on 25th February 2021; and,
- (v) The Public Participation (No. 2) Bill (NA Bill No. 71 of 2019) by the Hon. Chris Wamalwa, MP, which was read a First Time on 30th October 2019.

(6) Bills before the Departmental Committee on Labour and Social Welfare -

- (i) The Breastfeeding Mothers Bill (NA Bill No. 74 of 2019) by the Hon. Sabina W. Chege, MP, having been read a First Time on 6th November 2019;
- (ii) The Children (Amendment) Bill (NA Bill No. 46 of 2020) by the Hon. George Peter Kaluma, MP, which was read a First Time on 22nd December 2020; and,
- (iii) The Institute of Social Work Professionals Bill (NA Bill No. 31 of 2020) by the Hon. Joshua Kivinda Kimilu, MP, which was read a First Time on 22nd December 2020.

(7) With respect to the Departmental Committee on Transport, Public Works and Housing, records indicate that only one Individual Member Bill is pending tabling of report. This is The National Construction Authority (Amendment) Bill (NA Bill No. 45 of 2020) sponsored by the Hon. David Gikaria, MP, which was read a First Time on 9th June 2021.

Honourable Members, as you may have noticed, some Bills that have been pending before the respective Committees were introduced in the House during the

Third Session (that is 2019). They have been pending for that long and now stand the risk of lapsing at the end of the Fifth Session pursuant to the provisions of Standing Order 141 (*Lapsing and re-introduction of Bills*) as read together with the resolution of the House of December 3, 2020.

This is regrettably unfortunate and might be construed by the sponsors of the affected Bill as a calculated attempt by Committees to stifle their constitutional mandate of legislating.

Honourable Members, let it not be lost of Committees that indeed, Standing Order 127 (4) obligates a Committee to which a Bill is committed to report to the House **within twenty one calendar days of such committal**.

Whereas the said Standing Order permits the House Business Committee to schedule Second Reading of a Bill after twenty-one days even if the relevant Committee has not tabled a report on the Bill, the importance of having Committee reports on Bills before commencement of Second Reading need not be over-emphasized.

For the information of Hon. Members, Committee reports on Bills not only inform and enrich debate on the Bill, but also most importantly, espouse the views and recommendations of the public, which legitimizes the legislative process and cushions the House from judicial review under Article 118 of the Constitution (*Public Access and Participation*).

Honourable Members, I also hasten to remind Committees of the ramifications of Standing Order 127(5) regarding failure to table reports on Bills within the stipulated timeline. For clarity, the said Standing Order provides as follows -

*“If for any reason, at commencement of Second Reading the report has not been presented, the Committee concerned shall report progress to the House, **and the failure to present the report shall be noted by the Liaison Committee for necessary action”.***

I therefore encourage Committees to have fidelity on the dictates of Standing Order 127, which is intended to enrich the law making process rather than mete punishment to Committees for non-compliance.

Honourable Members, the Leadership of the House, through the House Business Committee, continues to play its part in ensuring that individual Members’ legislative business is considered and concluded. You may be aware of the progressive measures that the Leadership has consistently instituted to avail accelerate processing of individual Member Bills and prioritize their consideration by the House. You may recall that, in February 2019, upon a resolution of the House Business Committee, I ordered publication of thirty (30) individual Members’ legislative proposals that had over-stayed in Committees during pre-publication scrutiny. In that Session, the number of individual Member Bills shot steeply.

On June 8, 2021, the House Business Committee moved this House to resolve to accord priority to individual Members’ business during the Sittings of the House every Thursday Afternoon. Further, the House Business Committee has proposed to the House to alter its Calendar for Fifth Session so as to extend the upcoming recess from two to three weeks.

Honourable Members, the intention of the Leadership is largely to avail more time to Committees to consider Bills pending before them, and submit reports to the House, having undertaken public participation as required under Article 118 of the Constitution as read together with Standing Order 127(3). **I therefore encourage Chairpersons of the concerned Committees to endeavor to prioritize the**

listed Bills during the recess period and table their Reports in the House as soon as possible. This will enable the House Business Committee to also prioritize the Bills for consideration at Second Reading and subsequent stages by the House in good time.

Having said that, **Honourable Members**, it is important to take note that, some of the individual Members' Bills awaiting Second Reading have already been overtaken by events. They include, but may not necessarily be limited to the Independent Electoral and Boundaries Commission (Amendment) Bill, 2019 and the Excise Duty (Amendment) Bill, 2020, both sponsored by the Hon. Jude Njomo, MP. Further, there may be Bills whose sponsors no longer have the interest to pursue for one reason or the other. Whereas it is the responsibility of the sponsor to cause the withdrawal, in accordance with Standing Order 140, the relevant Committees have a duty to report to the House such developments.

Honourable Members, from a review of individual Members' Bills awaiting Second Reading, the House Business Committee observed that certain Bills, such as the one to amend the Public Procurement and Asset Disposal Act and another to amend the Public Finance Management Act, are similar in nature.

As such, the Committee will take a decision on which Bills to schedule first, the import of which is that other Bill might fall. With regard to individual Members' Bills seeking to amend the Constitution, I urge the Departmental Committee on Justice and Legal Affairs to take a deliberate decision on the said Bills and make appropriate recommendations to the House on how to proceed with those Bills, having undertaken public participation in cases where that has not been done.

Honourable Members, allow me to also speak to the Bills referred to the Budget and Appropriations Committee for determination of 'Money Bill' implication in accordance with Article 114(2) of the Constitution and Standing Order 114(3)(b), before being referred to the relevant Departmental Committees. I urge the Committee to hasten the processing of such Bills and make appropriate recommendations to the House.

Further, and so as to keep the House abreast on business before committees, I direct the Liaison Committee, which is responsible for coordinating the operations of all committees, to provide regular reports of pending business before all committees on Thursdays of every sitting week by way of a Statement. The Committee is further directed to impress upon committees of the House to prioritize consideration of Bills pending before them.

In summary, **Hon. Members**, I wish to guide as follows -

- (1) **THAT**, all Committees should prioritize consideration of individual Members' Bills and any other Bills referred to them during the recess and table reports thereof as soon as the House resumes sittings from 3rd August 2021. Further, they are directed to prioritize consideration Bills pending before them in their Work Plans for the Financial Year 2021/22 as a matter of principle;
- (2) **THAT**, in the case of several Bills seeking to amend similar laws, the House Business Committee shall determine which of the Bills to schedule for Second Reading and subsequent stages, the import of which the other Bills might fall;
- (3) **THAT**, the Liaison Committee is henceforth directed to be reporting to the House *on the Status of Business Pending before all Committees* by way of a Statement to be made in the House every last Thursday of each Month whenever the House is in Session.

The Committees and indeed the House are accordingly guided.

I thank you.

5. PETITIONS

The Speaker conveyed the following petition:-

1. PROPOSED AMENDMENT TO THE SPORTS ACT, 2013

Honourable Members, Standing Order 225(2)(b) requires the Speaker to report to the House any petition, other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation.

In this regard, **Honourable Members**, I wish to report to the House that my office has received a petition from one Mwaura S. Mungai of P.O. Box 1391 Limuru calling for *“amendment of the Sports Act, 2013 in order to streamline coordination of quality physical activities, physical education, fitness, recreation and sport.”*

The petitioner, **Honourable Members**, introduces himself as a fitness therapist and avers that Kenya’s rapid socio-economic growth has led to its high prevalence of Non-Communicable Diseases such as obesity, diabetes, cardiovascular disease, cancer and bodily injuries occasioned by poor lifestyles and aggravated by drugs and substance abuse. He states that 15% of Kenyans are dangerously inactive, and quotes a Ministry of Health report which discloses that Non-Communicable Diseases account for 37% of the overall disease burden and 35% of all deaths in the country. He further asserts that rising morbidity and mortality rates that are aggravated by exposure to environmental, occupational and biological risk factors require urgent intervention aimed at reducing the strain of medical expenditure on the economy.

Consequently, **Honourable Members**, the petitioner identifies physical activity and sport as a key solution to the prevalence of Non-Communicable Diseases, and recommends, among others, the following amendments to the Sports Act, 2013:

- 1) renaming ‘The Sports Act’ as ‘The Physical Activities and Sports Act’;
- 2) renaming ‘Sports Kenya’ as ‘The Kenyan Alliance for Health, Physical Activities and Sport (KAHPAS)’;
- 3) inclusion of ‘fitness, leisure, recreation and dance’ as part of the mandate of the renamed Sports Kenya;
- 4) inclusion of ‘registration of fitness, recreation and dance professionals’ as well as ‘registration of all commercial health clubs, gyms, swimming pools and therapy centres’ as part of the mandate of the renamed Sports Kenya;

- 5) empowering the renamed Sports Kenya to assess playgrounds in all schools countrywide to ascertain their conformity to specifications of size and other standards, and
- 6) establishment of national associations specializing in health and safety education, fitness and recreation, participation of girls and women in sport, sports for persons living with disabilities, as well as establishment of the Kenya National Dance Association.

Honourable Members, pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committee on Sports, Culture and Tourism. The Committee is requested to consider the petition and report its findings to the House and to the petitioners in accordance with Standing Order 227(2).

I thank you!

2. The Member for Mwingi West Constituency (Hon. Charles Ngusya Nguna) regarding the Gazettment of Kitui County as a Hardship Area.
 - *Petition referred to the Departmental Committee on Administration and National Security pursuant to Standing Order 227(1).*
3. The Member for Matuga Constituency (Hon. Tandaza Kassim Sawa) regarding the irregular annexation and fencing by Greatcom Limited of private land in Tiwi, Shimba North Kunditsi B Zone in Matuga Constituency.
 - *Petition referred to the Departmental Committee on Lands pursuant to Standing Order 227(1).*

6. QUESTIONS

The following questions were asked -

- (i) Ordinary Question No. 200/2021 by the Member for Narok South (Hon. Korei Lemein) regarding the measures, if any, instituted by the Ministry to rehabilitate the two kilometer stretch of the *Junction - Olmekenyu road* which connects *Ololulunga* Sub-County Headquarters and the main highway.

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

- (ii) Ordinary Question No. 205/2021 by the Member for Trans Nzoia County (Hon. Janet Nangabo) regarding why the National Hospital Insurance Fund (NHIF) is yet to remit funds to the Linda Mama Programme since November 2020.

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

- (iii) Ordinary Question No. 207/2021 by the Nominated Member (Hon. Prof. Jacqueline Oduol) regarding what measures the have been put in place to protect minors from grooming and coercion by duty bearers, including parents to online sexual exploitation.

(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) Ordinary Question No. 226/2021 by the Member for Kisumu West (Hon. Olago Aluoch) regarding the progress made by the National Land Commission in disbursing money received from Kenya National Highway Authority (KenHA) in December 2016 amounting to Ksh.314,160,828.00 for compensation of persons whose fixed assets in Kogony Sub-Location were compulsorily acquired by Government for the Construction of the Kisumu Northern Bypass.

(To be replied to by the National Land Commission before the Departmental Committee on Lands).

- (v) Ordinary Question No. 232/2021 by the Member for Subukia (Hon. Samuel Gachobe) regarding why fifty (50) persons recruited from twenty-six sub locations in Subukia Sub County under the NYS Empowerment Programme in May to August 2016 had not been paid.

(To be replied to by the Cabinet Secretary for Public Service and Gender before the Departmental Committee on Administration and National Security).

- (vi) Ordinary Question No. 236/2021 by the Member for Kitui West (Hon. Edith Nyenze) regarding establishment of a Technical and Vocational Education and Training (TVET) institution in Kitui West Constituency.

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

- (vii) Ordinary Question No. 238/2021 by the Member for Kathiani (Hon. Robert Mbui) regarding the circumstances that led to the Kenya National Examination Council to issue a circular directing both private and public schools with less than forty (40) candidates to be hosted by an examination centre with more than forty (40) candidates during the 2021 KCPE and KSCE examinations.

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

- (viii) Ordinary Question No. 240/2021 by the Member for Kwale County (Hon. Zuleikha Hassan) regarding plans in place to repair Mwachande Bridge in Lunga Lunga Constituency which was destroyed by heavy rains in 2014.

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

7. STATEMENTS PURSUANT TO STANDING ORDER 44(2) (C)

(i) Requests

The Member for Funyula (Hon. (Dr.) Ojiambo Oundo) requested for a statement on the Status of the Kenya Transport and Logistics Network (KTLN).

(ii) Responses

The Chairperson of the Departmental Committee on Environment and Natural Resources:

- a) issued a response to a request for a Statement by the Member for Chepalungu Constituency (Hon. Gideon Koske) on Leopard Menace in Chepalungu Constituency.
- b) tabled a response to a request for a Statement by the Member for Ikolomani Constituency (Hon. Bernard Shinali) regarding miners who lost their lives in Ikolomani Constituency.
- c) In agreement with the Member for Mvita (Hon. Abdullswamad Sharrif Nassir) deferred issuing a response to a request for a Statement by the Member on the construction of a storeyed building in old town and untended construction of residential estates flats in Buxton, Mombasa.

8. MOTION - REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE KENYA NATIONAL BLOOD TRANSFUSION SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 6 OF 2020)

Order for Third Reading read;

Motion made and Question proposed -

THAT, the Kenya National Blood Transfusion Service Bill (National Assembly Bill No. 6 of 2020) be now read a Third Time.

(Leader of the Majority Party)

Question put and agreed to.

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

9. MOTION - APPROVAL OF THE PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) 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 (Equalization Fund Administration) Regulations, 2021, laid on the Table of the House on Thursday, July 1, 2021, and pursuant to the provisions of Section 205(1) of the Public Finance Management Act, 2012 **approves** the Public Finance and Management (Equalization Fund Administration) Regulations, 2021 published as *Legal Notice No. 54 of 2021*.

(Chairperson, Committee on Delegated Legislation)

Debate on the Motion having been concluded on Tuesday, July 06, 2021;

Question put and agreed to.

10. MOTION - REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE PARLIAMENTARY PENSIONS (AMENDMENT) (NO. 3) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2019)

Order deferred.

11. MOTION - ALTERATION OF THE CALENDAR OF THE HOUSE

Motion made and Question proposed;

THAT, pursuant to the provisions of Standing Order 28(4), this House, resolves to alter its Calendar for the Fifth Session (Regular Sessions), as adopted on Wednesday, 10th February, 2021 and amended on Tuesday, 8th June, 2021 by varying the period for the Short Recess with respect to the Second Part of the Session, so that -

- (a) the Short Recess commences on Friday, 9th July, 2021 and ends on Monday, 2nd August, 2021; and,
- (b) the House resumes its regular Sittings on Tuesday, 3rd August, 2021 to continue with the Second Part of the Session.

(Leader of the Majority Party)

Question put and agreed to.

12. COMMITTEE OF THE WHOLE HOUSE

The Parliamentary Pensions (Amendment) (No. 3) Bill (National Assembly Bill No. 57 of 2019).

Order deferred.

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

(Chairperson, Departmental Committee on Administration and National Security)

Order for Second Reading read;

Motion having been made and Question proposed -

THAT, The County Governments (Amendment) Bill (Senate Bill No. 13 of 2018) be now read a Second Time;

Debate interrupted on Tuesday, June 29, 2021 resumed;

(Change of Chair from the Honourable Speaker to the Fourth Chairperson)

And the time being half past Six O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without question put pursuant to the Standing Orders.

6. HOUSE ROSE

- at half past Six O'clock

MEMORANDUM

The Speaker will take the Chair on,
Wednesday, June 07, 2021 at 7.00 p.m.

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