

(No. 123)



(1611)

REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FIFTH SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

**SPECIAL SITTING
SUPPLEMENTARY**

Convened vide Gazette Notice No.13599 of 17th December, 2021

TUESDAY, DECEMBER 21, 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.* SPECIAL MOTION – CONSIDERATION OF NOMINEE FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION

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

THAT, taking into consideration the findings of the Departmental Committee on Administration and National Security in its report on the *Vetting of a Nominee for appointment as Chairperson of the Public Service Commission, laid on the Table of the House on Tuesday, 21st December, 2021*, and pursuant to the provisions of Article 233(2) of the Constitution, paragraph 4(1) of the First Schedule to the Public Service Commission Act, 2017 and section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011, this House **approves** the appointment of **Amb. Anthony Mwaniki Muchiri** as the Chairperson of the Public Service Commission.

9.* SPECIAL MOTION – CONSIDERATION OF NOMINEES FOR APPOINTMENT AS MEMBERS OF THE NATIONAL GENDER AND EQUALITY COMMISSION

(The Chairperson, Departmental Committee on Labour and Social Welfare)

THAT, taking into consideration the findings of the Departmental Committee on Labour and Social Welfare in its report on the *Vetting of the Nominees for appointment as Members of the National Gender and Equality Commission, laid on the Table of the House on Tuesday, 21st December, 2021*, and pursuant to the provisions of Article 250(2)(b) of the Constitution and section 11(7) of the National Gender and Equality Commission Act, 2011, this House **approves** the appointment of the following persons as Members of the National Gender and Equality Commission:

(i) Ms. Caroline Naikena Lentupuru; and,

(ii) Mr. Thomas Okoth Koyier.

10.* COMMITTEE OF THE WHOLE HOUSE

The Proceeds of Crime and Anti-Money Laundering (Amendment) Bill (National Assembly Bill No. 39 of 2021)

(The Leader of the Majority Party)

11.* THE POLITICAL PARTIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 56 OF 2021)

(The Leader of the Majority Party)

Second Reading

*** Denotes Orders of the Day**

NOTICES

I. THE PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 39 OF 2021)

- 1) Notice is given that the Leader of the Majority Party intends to move the following amendments to the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2021 at the Committee Stage-

CLAUSE 2

THAT, clause 2 of the Bill be amended-

(a) by inserting the following new paragraph immediately after paragraph (a)-

(ab) in the definition of the term “authorised officer” by deleting the word “Minister” and substituting therefor “Cabinet Secretary”;

(b) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) in the definition of “designated non-financial businesses or professions” by-

(i) inserting the following new paragraph immediately after paragraph (fa)-

(fb) advocates, notaries and other independent legal professionals who are sole practitioners, partners or employees within professional firms.

(ii) deleting the word “Minister” appearing in paragraph (d) and substituting therefor the word “Cabinet Secretary”;

(c) by deleting the definition of the term “Minister”;

(d) in the definition of the term “supervisory body” by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

(e) in paragraph (d) by inserting the following new definition immediately before the definition of “Oversight Board” -

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance;

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 2-

Amendment
of section 24
of No. 9 of
2009

2A. Section 24 of the principal Act is amended by deleting the word “Minister” wherever it appears and substituting therefor the words “Cabinet Secretary”.

CLAUSE 3

THAT, clause 3 of the Bill is amended by inserting the following new paragraph immediately after paragraph (b)-

(ba) subsection (3) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary;

CLAUSE 4

THAT, the Bill be amended by deleting clause 4 and substituting therefor the following new clause-

Amendment of section 26
of No.9 of 2009

4. Section 26 of the principal Act is amended –

- (a) in subsection (1) by deleting the words “or the Deputy Director” appearing immediately after the word “Director General”; and
- (b) by deleting the word “Minister” wherever it appears and substituting therefor the word “Cabinet Secretary”.

CLAUSE 5

THAT, the clause 5 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)-

(c) in subsection (1) and (2) by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 5-

Amendment of section
28 of No.9 of 2009

5A. The principal Act is amended in section 28 (3) by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clauses immediately after clause 7-

Amendment of section 40 of No. 9 of 2009

7A. The principal Act is amended in section 40 (1) (c) by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

Amendment of section 42 of No. 9 of 2009

7B. The principal Act is amended in section 42 by deleting the word “Minister” wherever it appears and substituting therefor the word “Cabinet Secretary”.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 8-

Amendment of section 45 of No. 9 of 2009

8A. The principal Act is amended in section 45(6) by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 9-

Amendment of section 49 of No. 9 of 2009

9A. The principal Act is amended in section 45(6) by deleting the word “Minister” wherever it appears and substituting therefor the word “Cabinet Secretary”.

CLAUSE 14

THAT, clause 14 of the Bill be amended-

(a) by deleting the proposed new clause 55A and substituting therefor the following new clause-

Assets Recovery
Advisory Board

55A. (1) There is established an advisory board to be known as the Asset Recovery Advisory Board which shall consist of-

(a) the chairperson, who shall be appointed by the Cabinet Secretary from among members of the Advisory Board appointed under paragraphs (h) to (j);

(b) the Attorney-General;

- (c) the Principal Secretary in the Ministry responsible for finance;
- (d) the Governor of the Central Bank of Kenya;
- (e) the Director General of the National Intelligence Service;
- (f) the Director General of Criminal Investigations;
- (g) the Director General of the Centre;
- (h) a representative of the Institute of Certified Public Accountants of Kenya;
- (i) a representative of the Law Society of Kenya;
- (j) a representative of the Estate Agents Registration Board;
- (k) the Agency Director, who shall be an ex-officio member of the Advisory Board.

(2) The bodies under subsection (1) (h) to (j) shall each nominate and submit to the Cabinet Secretary two names of persons of either gender.

(3) The Cabinet Secretary shall appoint three persons from among the persons nominated under subsection (2).

(4) In appointing the members of the Advisory Board, under subsection (1) (h) to (j), the Cabinet Secretary shall take into account gender and regional balance.

(5) A person shall be eligible for appointment to the Advisory Board under subsection (1) (h) to (j) if the person-

- (a) holds a degree in finance, accounts, economics or law from a university recognised in Kenya; and
- (b) has knowledge and expertise in matters relating to money laundering, asset tracing and recovery.

(6) A person appointed under subsection (1) (h) to (j) shall hold office for a period of three years and may be eligible for re-appointment for one further term.

(b) by inserting the following new section immediately after the proposed section 55B-

Conduct of business of
the Advisory Board.

55BA. The business and affairs of the Advisory Board shall be conducted in accordance with the provisions of the Fifth Schedule, but subject thereto, the Advisory Board may regulate its own procedure.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clauses immediately after clause 14-

Amendment of section 113
of No. 9 of 2009

14A. The principal Act is amended in section 113 by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

Amendment of section 121
of No.9 of 2009

14B. The principal Act is amended in section 121 by deleting the word “Minister” wherever it appears and substituting therefor the word “Cabinet Secretary”.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clauses immediately after clause 15-

Amendment of section 132
of No. 9 of 2009

15A. The principal Act is amended in section 132 by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

Amendment of section 134
of No.9 of 2009

15 B. The principal Act is amended in section 134 by deleting the word “Minister” wherever it appears and substituting therefor the word “Cabinet Secretary”.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 16-

Amendment of the
Fifth Schedule to
No. 9 of 2009.

17. The Fifth Schedule to the principal Act is amended-

- (a) In the title to the schedule by inserting the words “and Advisory Board” immediately after the word “Board”;
- (b) in paragraph 1 by inserting the words “or Advisory Board” immediately after the word “Board” wherever it appears;
- (c) in paragraph 2 by inserting the words “or Advisory Board” immediately after the word “Board” wherever it appears;
- (d) in paragraph 3 by inserting the words “or Advisory Board” immediately after the word “Board”;
- (e) in the marginal note to paragraph 4 by inserting the words “or Advisory Board” immediately after the word “Board” ;

- (f) in paragraph 5 by inserting the words “or Advisory Board” immediately after the word “Board” wherever it appears;
- (g) in paragraph 6 by inserting the words “or Advisory Board” immediately after the word “Board” wherever it appears;
- (h) in paragraph 7 by inserting the words “or Advisory Board” immediately after the word “Board” wherever it appears;
- (i) in paragraph 8 by inserting the words “or Advisory Board” immediately after the word “Board” wherever it appears;

2) **Notice is given that Chairperson of the Departmental Committee on Finance and National Planning intends to move the following amendments to the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2021 at the Committee Stage-**

CLAUSE 2

THAT, clause 2 of the Bill be amended

- (a) in paragraph (c) by deleting the word “insurance undertakings” and substituting therefor the words “insurance underwriter”;
- (b) in paragraph (d) by deleting the definition of the term “Oversight Board” and substituting therefor the following new definition-
“Advisory Board” means the Asset Recovery Advisory Board established under section 55A;

CLAUSE 8

THAT, clause 8 of the Bill be amended in the proposed new clause 44A by inserting the following new subsection immediately after subsection (1)-

(1A) Subject to sub-section (1), the Centre shall apply ex-parte to the Court for an order directing that a reporting institution or person not to proceed with the transaction or any other transaction in respect of the funds or property affected by that transaction.

CLAUSE 10

THAT, clause be amended —

- (a) in paragraph (a) by deleting the words “Oversight Board” and substituting therefor the words “Advisory Board”;
- (b) in paragraph (c) in the proposed subsection (3) —
 - (i) by deleting paragraph (a) and substituting therefor the following new paragraph-

- (a) holds a degree in law, finance, accounting or any other relevant degree from a university recognised in Kenya;
- (ii) in paragraph (c) by deleting the words “Oversight Board” and substituting therefor the words “Advisory Board”.

CLAUSE 11

THAT, clause 11 of the Bill be amended—

- (a) in paragraph (a) by deleting the words “Oversight Board” and substituting therefor the words “Advisory Board”; and
- (b) in paragraph (c) by deleting the words “Oversight Board” and substituting therefor the words “Advisory Board”.

CLAUSE 13

THAT, the Bill be amended in clause 13 by deleting the words “Oversight Board” and substituting therefor the words “Advisory Board”.

CLAUSE 14

THAT, clause 14 of the Bill be amended —

- (a) in the proposed new clause 55A by —
 - (i) deleting the word “Oversight” and substituting therefor the word “Advisory”;
 - (ii) deleting paragraph (c) and substituting therefor the following new paragraph—
 - (c) the Governor of the Central Bank of Kenya;
- (b) in the proposed new clause 55B by deleting the word “Oversight” and substituting therefor the word “Advisory” wherever it appears;
- (c) in the proposed new clause 55C by deleting the word “Oversight” and substituting therefor the word “Advisory” wherever it appears;
- (d) by deleting the proposed new clause 55D;
- (e) in the proposed new clause 55E by deleting the word “Oversight” and substituting therefor the word “Advisory” wherever it appears;
- (f) in the proposed new clause 55F by deleting the word “Oversight” and substituting therefor the word “Advisory”;
- (g) in the proposed new clause 55G by deleting the word “Oversight” and substituting therefor the word “Advisory” wherever it appears.

CLAUSE 15

THAT, the Bill be amended in the proposed new clause 130 B by inserting the following proviso in subsection (2)(d)-

Provided that the Centre shall apply for a court order before performing any of the actions in paragraph (a),(b) (c) and (d).

3) **Notice is given that the Member for Homa Bay Town (Hon. Peter Kaluma) intends to move the following amendments to the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2021 at the Committee Stage—**

CLAUSE 2

THAT, Clause 2 of the Bill be amended in paragraph (b) by inserting the words “subject to section 18” immediately before the word “advocates” appearing in the proposed new paragraph (fb);

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after Clause 2-

Amendment of section
18 of No. 9 of 2009

2A. Section 18 of the principal Act is amended by deleting sub-section (4).

CLAUSE 9

THAT, Clause 9 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) by inserting the following new paragraph immediately after paragraph(a)-

(aa) subject to section 18, advocates, notaries and other independent legal professionals who are sole practitioners, partners or employees within professional firms, when preparing or carrying out transactions for their clients in the following situations-

- (i) buying and selling of real estate;
- (ii) managing of client money, securities or other assets;

- (iii) management of bank, savings or securities accounts;
- (iv) organization of contributions for the creation, operation or management of companies; or
- (v) creation, operation or management of buying and selling of business entities or legal arrangements.

CLAUSE 14

THAT, Clause 14 of the Bill be amended in the proposed new section 55A by-

- (i) deleting paragraph (c);
- (ii) deleting paragraph (f);
- (iii) inserting the following new paragraph immediately after paragraph (e)-
 - (ea) the Secretary of the Ethics and Anti-Corruption Commission;

4) **Notice is given that the Member for Kibwezi West (Hon. Patrick Musimba) intends to move the following amendments to the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2021 at the Committee Stage-**

CLAUSE 8

THAT, clause 8 of the Bill be amended in the proposed new clause 44 A by inserting -

- (a) the following new subsection immediately after subsection (1)-

(1A) Subject to subsection (1), after the five working days the institution or person shall proceed with the transaction without any further extension of time.

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

(3) The provisions of this section shall not apply to transactions that are governed by the Capital Markets Authority Act.

CLAUSE 10

THAT, clause 10 of the Bill be amended -

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

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

(2) The Public Service Commission shall appoint a fit, competent and proper person to be the Director of the Agency (hereinafter referred to as the “Agency Director”), who shall be subject to Parliamentary approval.

(b) by inserting the following new paragraph immediately after paragraph (c)-

(d) by deleting subsection (4) and substituting therefor the following new subsection-

(4) The Agency Director may request for secondment of staff from the Public Service Commission on such terms and conditions of service as may be recommended by the Salaries and remuneration Commission, and make such arrangements for the provision of services, as he considers appropriate for or in connection with the exercise of the functions of the Agency.

CLAUSE 12

THAT, the Bill be amended by deleting clause 12 and substituting therefor the following new clause-

Amendment of section 54A
of No.9 of 2009.

12. Section 54A of the principal Act is amended-

(a) by deleting subsection (1) and substituting therefor the following new subsection-

(1) The National Assembly shall allocate adequate funds to the Agency to enable the Agency perform its functions under this Act and any other written law and the budget shall be a separate vote.

(b) in subsection (2) by deleting paragraphs (b) and (c) ; and

(c) by deleting subsection (6).

CLAUSE 15

THAT, clause 15 of the Bill be amended in the proposed new clause 130B by inserting the words “and subject to a court order” immediately before the words “under this Act” appearing in subsection (2).

LIMITATION OF DEBATE

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

Limitation of Debate on Bills sponsored by Parties or Committees

- II. 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 Motions

- III. THAT**, each speech in a debate on any **Motion, including a Special motion** shall be limited in the following manner:- A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each 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 (15) minutes each, and **THAT** ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; 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.
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NOTICE PAPER I

Tentative business for

Wednesday (Morning), December 22, 2021

(Published pursuant to Standing Order 38(1))

It is notified that the House Business Committee, at their last meeting, approved the following ***tentative*** business to appear in the Order Paper for Wednesday (Morning), December 22, 2021:-

A. SPECIAL MOTION – CONSIDERATION OF NOMINEE FOR APPOINTMENT AS CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION (PSC)

(If not concluded on Tuesday, December 21, 2021 – Afternoon Sitting)

B. SPECIAL MOTION – CONSIDERATION OF NOMINEES FOR APPOINTMENT AS MEMBERS OF THE NATIONAL GENDER AND EQUALITY COMMISSION (NGEC)

(If not concluded on Tuesday, December 21, 2021 – Afternoon Sitting)

C. THE POLITICAL PARTIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 56 OF 2021)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Tuesday, December 21, 2021 – Afternoon Sitting)

...../Notice Paper II*

NOTICE PAPER II

Tentative business for

Wednesday (Afternoon), December 22, 2021

(Published pursuant to Standing Order 38(1))

It is notified that the House Business Committee, at their last meeting, approved the following *tentative* business to appear in the Order Paper for Wednesday (Afternoon), December 22, 2021:-

A. COMMITTEE OF THE WHOLE HOUSE

The Political Parties (Amendment) Bill (National Assembly Bill No. 56 of 2021)
(The Leader of the Majority Party)
