



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FIFTH SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**WEDNESDAY, NOVEMBER 17, 2021 (MORNING)**

1. The House assembled at thirty minutes past Nine O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Deputy Speaker

4. **QUESTIONS**

The following Questions were asked –

- (i) Question No.166/2021 by the Member for Kitui County (Hon. (Dr.) Irene Kasalu, MP) regarding rolling out of the Adult Education Programme in the country.

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

- (ii) Question No.325/2021 by the Member for Kathiani Constituency (Hon. Robert Mbui, MP) regarding construction of the Mumbuni – Kathiani Road.

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

- (iii) Question No.328/2021 by the Member for Mumias East Constituency (Hon. Benjamin Washiali, MP) regarding container transportation via the Standard Gauge Railway.

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

- (iv) Question No.360/2021 by the Member for Rongai Constituency (Hon. Kipruto Moi, MP) regarding death of Serjeant Arnold Kipyegon Kenei Imara Daima Estate.

*(To be replied to by the Cabinet Secretary for Interior and Coordination of Government before the Departmental Committee on Administration and National Security)*

- (v) Question No.440/2021 by the Member for Kamukunji Constituency (Hon. Yusuf Hassan, MP) regarding ownership status of Land Parcel L.R. No. 209/21721 in California Ward of Kamukunji Constituency.

*(To be replied to by Cabinet Secretary for Lands and Physical Planning before the Departmental Committee on Lands)*

The following Questions were deferred–

- (i) Question No.343/2021 by the Member for Lamu West Constituency (Hon. Stanley Muthama, MP) regarding drought mitigation in Lamu County.
- (ii) Question No. 378/2021 by the Member for Nyaribari Masaba (Hon. Ezekiel Machogu, MP) regarding construction of the Sosera – Ramasa Road.
- (iii) Question No. 462/2021 by the Member for Tharaka Nithi County (Hon. Beatrice Nkatha, MP) regarding compensation of persons affected by construction of the Kionyo – Chogoria Loop Road in Maara Sub-County.

## **5. STATEMENTS**

a) The following Statements were sought:-

- (i) The Member for Wajir East Constituency (Hon. Rashid Amin, MP) sought for a Statement from the Departmental Committee on Defence and Foreign Relations on the outgoing recruitment exercise undertaken by the Kenya Defence Forces in the country. The Statement is to be channeled for scheduling through the Office of the Leader of the Majority Party.
- (ii) The Member for Marsabit County (Hon. Safia Sheikh, MP) sought for a Statement from the Departmental Committee on Agriculture and Livestock on sourcing of livestock markets locally and internationally. The Statement is to be channeled for scheduling through the Office of the Leader of the Majority Party.

## **6. THE EMPLOYMENT (AMENDMENT) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 79 OF 2019)**

Motion made and Question proposed –

**THAT**, the Employment (Amendment) (No. 2) Bill (National Assembly Bill No. 79 of 2019) be now read a Second Time.

*(Hon. Gideon Keter, MP -22.09.2021)*

Debate on the Motion having been concluded on Wednesday, November 10, 2021;

Question deferred.

## **7. COMMITTEE OF THE WHOLE HOUSE**

### **IN THE COMMITTEE**

The Third Chairperson in the Chair

The Assisted Reproductive Technology Bill (National Assembly Bill No. 34 of 2019)

Clause 3 - -Amendment proposed to Clause 3

**THAT**, the Bill be amended by deleting clause 3 and inserting the following new clause—

Application. **3.** This Act applies to all processes of facilitated human fertilization undertaken through insemination or outside the body.

*(Hon. Jenifer Shamalla, MP)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 3 - As amended by Hon. Jennifer Shamalla agreed to

Part II - -Amendment proposed to Part II

**THAT**, the Bill be amended by deleting the word “Authority” appearing in the heading to Part II and substituting therefor the word “Directorate”

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Part II - As amended by the Chairperson agreed to

Clause 4 - -Amendment proposed to Clause 4

**THAT**, the Bill be amended by deleting clause 4 and substituting therefor the following—

Assisted  
Reproductive  
Technology

**4.** Subject to section 18 of the Health Act, 2017 the Cabinet Secretary shall form a directorate to be known as the Assisted Reproductive Technology Directorate.

Directorate.

No.21 of  
2017.

*(Chairperson, Departmental Committee on Health)*

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 4 - As amended by the Chairperson agreed to

Clause 5 - Amendment proposed to Clause 5

**THAT**, clause 5 of the Bill be amended—

- (a) in the prefatory statement by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (b) in paragraph (c) and by deleting the words “undertake research” and substituting therefor the words “promote research”;
- (c) by inserting the following new paragraph immediately after paragraph(e)—
  - (ea) prescribe, in consultation with relevant government agency, the minimum requirements educational requirements for assisted reproductive technology experts and embryologists;
  - (eb) in consultation with the relevant government agency, inspect and accredit the facilities for the training of experts and embryologists to ensure compliance with set standards;
  - (ec)maintain and make available to the public a register of information on all the licenced assisted reproductive technology facilities in Kenya;
  - (ed)in consultation with the Medical Practitioners and Dentist Council, maintain and make available to the public a register of information on all the licenced assisted reproductive technology experts and embryologists.

in paragraph (k) by deleting the word “Authority” and substituting therefor the word “Directorate

*(Chairperson, Departmental Committee on Health)*

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 5 - As amended by the Chairperson agreed to

Clause 6 - -Amendment proposed to Clause 6

**THAT**, the Bill be amended by deleting clause 6 and inserting the following new clause –

Obligations of the National Government. **6.**The National Government shall –

- (a) put in place the necessary mechanisms and infrastructure to ensure access to the highest attainable standard and quality of cost-effective assisted reproductive technology services;
- (b) provide adequate resources necessary to ensure access to the highest attainable standard and quality of cost-effective assisted reproductive technology services;
- (c) provide regulations to ensure assisted reproduction health services are covered by every health insurance provider including the National Health Insurance Fund; and
- (d) collaborate with the county governments in expanding and strengthening the access and delivery of assisted reproductive health services in counties.

*(Chairperson, Departmental Committee on Health)*

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 by deleting clause 7 and inserting the following new clause—

Obligations of 7. Each County Governments shall –

County

Governments.

- (a) collaborate with the National Government in expanding and strengthening the access and delivery of assisted reproductive health services in the respective counties;
- (b) allocate in the county budget, the funds necessary for the provision of quality, cost-effective assisted reproductive technology services in the county health systems, including finances required to hire adequate personnel;
- (c) procure sufficient equipment, medicine, medical supplies required to adequately cater for assisted reproductive health care services in the respective counties;
- (d) carry out sensitization programmes related to assisted reproductive technology; and
- (e) establish linkages and networks with local and international development partners to mobilise and source for funding to promote the delivery of quality and cost-effective assisted reproductive technology services in the county.

*(Chairperson, Departmental Committee on Health)*

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 - Deletion proposed to Clause 8

**THAT**, the Bill be amended by deleting clause 8.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 8 - **Deleted**

Clause 9 - Deletion proposed to Clause 9

**THAT**, the Bill be amended by deleting clause 9.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 9 - **Deleted**

Clause 10 - Deletion proposed to Clause 10

**THAT**, the Bill be amended by deleting clause 10.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 10 - **Deleted**

Clause 11 - Deletion proposed to Clause 11

**THAT**, the Bill be amended by deleting clause 11.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 11 - **Deleted**

Clause 12 - Amendment proposed to Clause 12

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

Composition  
of the  
Directorate.

**12.** (1) The Directorate shall consist of—

- (a) a Director; and
- (b) such other staff as the Cabinet Secretary may, in consultation with the Director, consider necessary for the performance of the functions of the directorate under this Act.

(2) The Director and staff of the directorate shall be competitively recruited and appointed on such terms and conditions as Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.

*(Chairperson, Departmental Committee on Health)*

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 12 - As amended by the Chairperson agreed to

Clause 13 - Amendment proposed to Clause 13

**THAT**, the Bill be amended by deleting clause 13 and substituting therefor the following new clause —

Experts and consultants. **13.** The Directorate may engage experts or consultants as it considers appropriate, for the discharge of the functions of the Directorate.

*(Chairperson, Departmental Committee on Health)*



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 13 - As amended by the Chairperson agreed to

Clause 14 - -Deletion proposed to Clause 14

**THAT**, the Bill be amended by deleting clause 14.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 14 - **Deleted**

Clause 15 - -Deletion proposed to Clause 15

**THAT**, the Bill be amended by deleting clause 15.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 15 - **Deleted**

Clause 16 - -Deletion proposed to Clause 16

**THAT**, the Bill be amended by deleting clause 16.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 16 - **Deleted**

Clause 17 - Deletion proposed to Clause 17

**THAT**, the Bill be amended by deleting clause 17.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 17 - **Deleted**

Clause 18 - Amendment proposed to Clause 18 (in an amended form)

**THAT**, the Bill be amended by deleting clause 18 and inserting the following new clause-

Use of embryo.	<b>18.</b> A person shall not create, keep or use <del>a human being</del> <b>an embryo</b> at any stage of development, either from fertilization or conception until a transfer to a woman except as provided under this Act.
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*(Hon. Jennifer Shamalla, MP)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 18 - As amended **in an amended form** by Hon. Jennifer Shamalla agreed to

Clause 19 - Amendment proposed to Clause 19

**THAT**, clause 19 of the Bill be amended by—

- (a) renumbering the existing provision as sub-clause (1); and
- (b) inserting the following new sub clause immediately after sub clause (1)—

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

*(Chairperson, Departmental Committee on Health)*

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 19 - As amended by the Chairperson agreed to

Clause 20 - Amendment proposed to Clause 20

**THAT**, clause 20 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1); and
- (b) inserting the following new sub clause immediately after sub clause (1)—
  - (2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

*(Chairperson, Departmental Committee on Health)*

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 20 - As amended by the Chairperson agreed to

Clause 21 - Deletion proposed to Clause 21

**THAT**, the Bill be amended by deleting clause 21.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 21 - **Deleted**

Clause 22 -Amendment proposed to Clause 22

**THAT**, clause 22 of the Bill be amended by deleting the words “a medical doctor” and substituting therefor the words “an assisted reproductive technology expert”.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Proposed Amendment to Clause 22 **withdrawn by the Health Committee Chairperson**

Clause 22 -Amendment proposed to Clause 22

**THAT**, the Bill be amended by deleting clause 22 and inserting the following new clause-

Circumstances for undertaking assisted reproductive technology.

**22.** An infertile couple shall qualify to undertake assisted reproductive technology where it is certified by a medical doctor that the couple requires assisted reproductive technology on the grounds of health.

*(Hon. Jennifer Shamalla, MP)*

Question on the amendment proposed;

Debate arising;

Question on Hon. Shamalla’s Amendment put and negatived;

Clause 22 -**Not Amended**

Clause 22 -Agreed to

Clause 23 -Amendment proposed to Clause 23

**THAT**, clause 23 of the Bill be amended —

- (a) by renumbering the existing provision as subclause (1);
- (b) in sub clause (1) by inserting the words “and commercial” immediately after the word “speculative” appearing in paragraph (c); and
- (c) by inserting the following new sub clause immediately after sub clause (1);

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 23 - As amended by the Chairperson agreed to

Clause 24                    -Amendment proposed to Clause 24

**THAT**, clause 24 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
- (b) inserting the following new sub clause immediately after sub clause (1) —
  - (2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 24 - As amended by the Chairperson agreed to

Clause 25                    -Amendment proposed to Clause 25

**THAT**, clause 25 of the Bill be amended—

- (a) by renumbering the existing provision as subclause (1);

- (b) in sub clause (1) by inserting the words “and with the consent of the parent or legal guardian of the minor” and
- (c) by inserting the following new sub clause immediately after sub clause (1); —

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both

*(Chairperson, Departmental Committee on Health)*

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 25 - As amended by the Chairperson agreed to

Clause 26 - -Amendment proposed to Clause 26

**THAT**, clause 26 of the Bill be amended—

- (a) by renumbering the existing provision as subclause (1);
- (b) in sub clause (1)—
  - (i) in the prefatory statement by deleting the word “Authority” and substituting therefor the word “Directorate”;
  - (ii) in paragraph (b) by inserting the words “after five days” immediately after the word “streak”;
  - (iii) by deleting paragraph (e) and substituting therefor the following new paragraph—
    - (e) the replacing of any part of an embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such replacement is meant to solve medical problems;

- (c) by inserting the following new sub clause immediately after sub clause (1);

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both

*(Chairperson, Departmental Committee on Health)*

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 26 - As amended by the Chairperson agreed to

Clause 27 - Amendment proposed to Clause 27

**THAT**, clause 27 of the Bill be amended—

- (a) by renumbering the existing provision as subclause (1);
- (b) in subclause (1) by inserting the words “or embryo” immediately after the word “eggs” appearing in paragraph (e); and
- (c) by inserting the following new sub clause immediately after sub clause (1);

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 27 - As amended by the Chairperson agreed to

Clause 28 - Amendment proposed to Clause 28 (in an amended form)

**THAT**, clause 28 of the Bill be amended in—

- (a) paragraph (a) by deleting the words “**and the assisted reproductive process** takes place within five years of the death of the man”; and
- (b) paragraph (b) by deleting the words “takes place within five years of the death of the man”.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed further amendment by Hon. Zuleikha Hassan **defeated**;

Clause 28 - As amended in an amended form by the Chairperson agreed to

Clause 29 - Agreed to

Clause 30 - Amendment proposed to Clause 30

**THAT**, the Bill be amended by deleting clause 30 and substituting therefor the following new clause —

- Rights to accrue to child.
- 30.** (1) A child born out of assisted reproductive technology under this Act shall have the same legal rights under the Constitution or any other written law as that of a child born through sexual intercourse.
- (2) The health and well-being of children born through the application of assisted human reproductive technologies shall be given priority in all decisions respecting their use.
- (3) Where a married couple obtains a divorce after the creation of an embryo, both partners reserve the right to withdraw consent of the implantation of the embryo which has been created by their sperm or ovum.
- (4) Where a sperm or ovum is donated from a man or woman of a different nationality, the child shall adopt the nationality of the intended parents.
- (5) Where a surrogate who is not a Kenyan citizen gives birth to a child, the child shall adopt the nationality of the intended parents.

*(Chairperson, Departmental Committee on Health)*

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 30 - As amended by the Chairperson agreed to



Clause 31 -Amendment proposed to Clause 31

**THAT**, clause 31 of the Bill be amended by—

(a) deleting sub clause (1) and substituting therefor the following new sub clause—

(1) A woman of twenty-five years or more, who has given birth at least to one child and who understands the rights and obligations accruing under a surrogacy agreement, may, at the request of a couple, consent to a process of assisted reproduction for purposes of surrogate motherhood.

(b) deleting sub clause (2) and substituting therefor the following new sub clause—

(2) The surrogate mother under subsection (1) shall carry the child on behalf of the parties to a marriage or couple and shall relinquish all parental rights at birth over the child.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed further amendments by Hon. Zuleikha Hassan and Hon. Jennifer Shamalla **defeated**;

Clause 31 - As amended by the Chairperson agreed to

Clause 32 -Amendment proposed to Clause 32

**THAT**, clause 32 of the Bill be amended by—

(a) deleting subclause (1) and substituting therefor the following new subclause—

(1) Parties to a marriage or commissioning parents intending to enter into a surrogacy agreement with any woman shall sign a surrogacy agreement in a prescribed form before the process is undertaken.

(b) inserting the following new sub clause immediately after sub clause (1) —

(1A) A person may enter into a surrogacy agreement under subsection (1) only if—

- (a) the person has the capacity to enter into the agreement under this Act and any other relevant written law in Kenya; and
- (b) understands the rights and obligations that may arise or accrue under this Act and the agreement.

(1B) A surrogacy agreement under subsection (1) is valid only if the agreement—

- (a) is in writing and signed by all the parties;
- (b) is entered into within the Republic of Kenya;
- (c) includes provisions for the contact, care, upbringing and general welfare of the child that is born, including the position of the child in the event of—
  - (i) death of the commissioning parent, or if a couple or parties to a marriage, death of one of the commissioning parents before the birth of the child; or
  - (ii) separation or divorce of the commissioning parents who were a couple or parties to a marriage, before the birth of the child.
- (d) where the commissioning parent or commissioning parents agree to meet the prenatal regimen and birth expenses of the surrogate mother;
- (e) where signatures to the surrogacy agreement are witnessed by a minimum two witness from each of the parties to the agreement;
- (f) where there are separate and independent advocates of the High Court of Kenya representing the parties to the agreement; and
- (g) where legal fees are paid by the commissioning parent, commissioning parents or parties to marriage.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed further amendments by Hon. Zuleikha Hassan and Hon. Jennifer Shamalla **defeated**;

Clause 32 - As amended by the Chairperson agreed to

Clause 33 - -Amendment proposed to Clause 33

**THAT**, clause 33 of the Bill be amended by deleting the word “Authority’ and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 33 - As amended by the Chairperson agreed to

Clause 34 - -Amendment proposed to Clause 34

**THAT**, clause 34 of the Bill be amended in-

- (a) sub clause (1) by deleting the words “eighteen may by notice to the Authority require the Authority” and substitute therefor the words “twenty-one may by notice to the Directorate require the Directorate”;
- (b) sub clause (2) by deleting the word “Authority” and substituting therefor the word “Directorate”; and
- (c) sub clause (3) by deleting the word “Authority” and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 34 - As amended by the Chairperson agreed to

Clause 35 - -Amendment proposed to Clause 35

**THAT**, clause 35 of the Bill be amended in-

- (a) sub clause (1) by deleting the word “Authority” and substituting therefor the words “Directorate”; and
- (b) sub clause (2) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 35 - As amended by the Chairperson agreed to

Clause 36 - -Amendment proposed to Clause 36

**THAT**, clause 36 of the Bill be amended in-

- (a) sub clause (1) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”; and
- (b) sub clause (2) by deleting the word “Authority” and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 36 - As amended by the Chairperson agreed to

Clause 37 - Amendment proposed to Clause 37

**THAT**, clause 37 of the Bill be amended -

- (a) in sub clause (1) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
- (b) in sub clause (2) by deleting the word “Authority” appearing in paragraph (b) and substituting therefor the word “Directorate”;
- (c) in sub clause (3) by deleting the word “Authority” appearing in paragraph (a) and substituting therefor the word “Directorate”; and
- (d) by inserting the following new sub clause immediately after sub clause (3);

(4) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 37 - As amended by the Chairperson agreed to

Clause 38 - Amendment proposed to Clause 38

**THAT**, clause 38 of the Bill be amended by deleting the word “Authority” and substituting therefor the words “Directorate in consultation with the Medical Practitioners and Dentist Council”.

*(Chairperson, Departmental Committee on Health)*

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 38 - As amended by the Chairperson agreed to

Clause 39 - Amendment proposed to Clause 39

**THAT**, clause 39 of the Bill be amended—

- (a) by renumbering the existing provision as subclause (1); and
- (b) by inserting the following new sub clause immediately after sub clause (1);

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 39 - As amended by the Chairperson agreed to

Clause 40 - Amendment proposed to Clause 40

**THAT**, clause 40 of the Bill be amended —

- (a) in sub clause (1) by deleting the word “Authority” and substituting therefor the word “Directorate”; and
- (b) in sub clause (3) by deleting the word “Authority” and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

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 40 - As amended by the Chairperson agreed to

Clause 41 - Amendment proposed to Clause 41

**THAT**, clause 41 of the Bill be amended—

- (a) in sub clause (1) by deleting the word “Authority” and substituting therefor the word “Directorate”;

- (b) in sub clause (2) by deleting the words “Authority shall inspect once” and substituting therefor the word “Directorate shall inspect at least once”; and
- (c) by deleting sub clause (3).

*(Chairperson, Departmental Committee on Health)*

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 41 - As amended by the Chairperson agreed to

Clause 42 - -Amendment proposed to Clause 42

**THAT**, clause 42 of the Bill be amended—

- (a) in sub clause (1) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (b) in sub clause (2) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
- (c) in sub clause (3) by—
  - (i) deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
  - (ii) inserting the following new paragraph immediately after paragraph (a)
    - (aa) the number of persons seeking assisted reproductive technology services, segregated by type of service sought, gender and outcome;
- (d) in sub clause (4) by deleting the word “Authority” and substituting therefor the word “Directorate”; and
- (e) by inserting the following new sub clause immediately after sub clause (5);

(6) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

*(Chairperson, Departmental Committee on Health)*

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 42 - As amended by the Chairperson agreed to

Clause 43 -Amendment proposed to Clause 43 (in an amended form)

**THAT**, clause 43 of the Bill be amended-

(a) by inserting the following new paragraphs immediately after paragraph (c)-  
“(ca) an embryo which is created but is not transferred to the surrogate or adoptive mother for any reason shall be stored and shall be given priority in the succeeding application for assisted reproductive technology;

~~(cb) no gametes or embryos shall be subjected to destruction;”~~

(b) in paragraph (e), by deleting the word “Authority” and substituting therefor the word “~~Ministry~~” **“Directorate.”**

*(Hon. Jennifer Shamalla, MP)*

Part (cb) of the amendment dropped by Hon. Jennifer Shamalla;

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 43 - As amended in an amended form by Hon. Jennifer Shamalla agreed to

Clause 44 -Amendment proposed to Clause 44

**THAT**, clause 44 of the Bill be amended—

- (a) in sub clause (1) by deleting the words “Authority the Authority” and substituting therefor the words “Directorate, the Directorate”;
- (b) in sub clause (2) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (c) in sub clause (3) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
- (d) in sub clause (4) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (e) in sub clause (5) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (f) in sub clause (6) by deleting the word “Authority” and substituting therefor the word “Directorate”; and

in sub clause (7) by deleting the word “Authority” and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

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 44 - As amended by the Chairperson agreed to

Clause 45 - -Amendment proposed to Clause 45

**THAT**, clause 45 of the Bill be amended in sub clause (2) by deleting the word “Authority” appearing in paragraph (b) and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

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 45 - As amended by the Chairperson agreed to

Clause 46 - -Amendment proposed to Clause 46

**THAT**, clause 46 of the Bill be amended—

- (a) in sub clause (1) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (b) in sub clause (2) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
- (c) in sub clause (3) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (d) in sub clause (4) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
- (e) in sub clause (5) by deleting the word “Authority” and substituting therefor the word “Directorate”; and



(f) in sub clause (6) by deleting the word “Authority” and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

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 46 - As amended by the Chairperson agreed to

Clause 47 - -Amendment proposed to Clause 47

**THAT**, clause 47 of the Bill be amended—

(a) by deleting sub clause (1) and substituting therefor the following new sub clause—

(1) Where the Directorate refuses to issue a licence or refuses to vary a licence—

(a) the applicant may apply for review to the Cabinet secretary within thirty days of the date on which the decision was communicated to the applicant; and

(b) the Cabinet Secretary may make such determination on the review as they deem fit.

(b) in sub clause (2) by deleting the word “Authority” wherever it appears and substituting therefor the word “Cabinet Secretary”; and

(c) by deleting sub clause (3).

*(Chairperson, Departmental Committee on Health)*

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 47 - As amended by the Chairperson agreed to

Clause 48 - -Amendment proposed to Clause 48

**THAT**, clause 48 of the Bill be amended by deleting the prefatory statement and substituting therefor the following new prefatory statement—

“Where the Cabinet Secretary, upon an application for review under section 47 of this Act determines—”

*(Chairperson, Departmental Committee on Health)*

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 48 - As amended by the Chairperson agreed to

Clause 49 - -Amendment proposed to Clause 49

**THAT**, clause 49 of the Bill be amended in—

- (a) sub clause (1) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”; and
- (b) sub clause (2) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”.

*(Chairperson, Departmental Committee on Health)*

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 49 - As amended by the Chairperson agreed to

Clause 50 - -Deletion proposed to Clause 50

**THAT**, the Bill be amended by deleting clause 50.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 50 - **Deleted**

Clause 51 - Deletion proposed to Clause 51

**THAT**, the Bill be amended by deleting clause 51.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 51 - **Deleted**

Clause 52 - Deletion proposed to Clause 52

**THAT**, the Bill be amended by deleting clause 52.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 52 - **Deleted**

Clause 53 - Deletion proposed to Clause 53

**THAT**, the Bill be amended by deleting clause 53.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 53 - **Deleted**

Clause 54 - Deletion proposed to Clause 54

**THAT**, the Bill be amended by deleting clause 54.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 54 - **Deleted**

Clause 55 - Deletion proposed to Clause 55

**THAT**, the Bill be amended by deleting clause 55.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 55 - **Deleted**

Clause 56 - Deletion proposed to Clause 56

**THAT**, the Bill be amended by deleting clause 56.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Subsequently, proposed deletion by Hon. Jennifer Shamalla also effected;

Clause 56 - **Deleted**

Clause 57 - -Amendment proposed to Clause 57 (in an amended form)

**THAT**, clause 57 of the Bill be amended by:-

(a) inserting the following new sub clause immediately after sub clause (2)—

(3) Where an offence against this section, is committed by a body corporate, the body corporate shall be liable to a fine not exceeding five million shillings.

**(b) deleting sub-clause (2)**

*(Chairperson, Departmental Committee on Health)*

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 57 - As amended in an amended form by the Chairperson agreed to

Clause 58 - -Amendment proposed to Clause 58

**THAT**, clause 58 of the Bill be amended by deleting the words “one hundred thousand” and substituting therefor the words “one million”.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 58 - As amended by the Chairperson agreed to

Clause 59 - -Amendment proposed to Clause 59 (in an amended form)

**THAT**, clause 59 of the Bill be amended—

- (a) in the prefatory statement by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (b) by deleting paragraph (d); and
- ~~(c) by deleting paragraph (i).~~

*(Chairperson, Departmental Committee on Health)*

Part (c) of the amendment dropped by the Health Committee Chairperson;

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 59 - As amended **in an amended form** by the Chairperson agreed to

New Clause 3A

-New Clause 3A proposed

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 3 —

Object and purpose of the Act.

**3A.** The object and purpose of this Act is to—

- (a) provide a framework for the protection and advancement of assisted reproductive technology services for every person;
- (b) create an enabling environment for the reduction of infertility and sub- fertility in Kenya; and
- (c) ensure access to quality and comprehensive assisted reproductive technology services in line with Article 43(1)(a) of the Constitution.

*(Chairperson, Departmental Committee on Health)*

Question on the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

New Clause 3A - Agreed to and Introduced into the Bill

**Progress on Bill to be Reported**

8. **HOUSE RESUMED** - the Deputy Speaker in the Chair

**The Assisted Reproductive Technology Bill (National Assembly Bill No. 34 of 2019)**

Progress on Bill Reported;

Motion made and Question proposed –

**THAT**, the the Committee of the House has considered the Assisted Reproductive Technology Bill (National Assembly Bill No. 34 of 2019) up to **New Clause 3A**, and approved the same with amendments, and seeks leave to sit again.

*(Hon. Millie Odhiambo, MP)*

Question deferred.

And the time being two minutes to One O'clock, the Deputy Speaker interrupted proceedings and adjourned the House without Question put pursuant to the Standing Orders.

9. **HOUSE ROSE** - at two minutes to One O'clock.

**MEMORANDUM**

The Speaker will take the Chair on  
today, Wednesday, November 17, 2021 at 2.30pm