



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FIFTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, OCTOBER 14, 2021

1. The House assembled at Two Thirty O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Hon. Speaker
4. **PAPERS**

The following Paper was laid on the Table of the House –

Report of the Departmental Committee on Labour and Social Welfare on its consideration of the Community Groups Registration Bill (National Assembly Bill No. 20 of 2011).

(Hon. Kabinga Wachira – Member, Departmental Committee on Labour and Social Welfare)

5. **QUESTIONS**

a) The following Questions were asked-

- (i) **Question No.424/2021** by the Member for Kisumu West (Hon. Olago Aluoch) on the steps being taken to stop the frequent accidents occurring at the *Mawembe Mbili, Riat, Kona Mbaya* and *Coptic Roundabout* sections of the *Kisumu – Kakamega Highway*, situated between *Kiboswa* and *Coptic Church* in Kisumu West Constituency;

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

- (ii) **Question No.425/2021** by the Member for Kajiado North (Hon. Joseph Manje) on the action being taken to address cases of mistreatment and harassment of Kenyans working in the Middle East countries, particularly Saudi Arabia and Qatar;

(To be replied to by the Cabinet Secretary for Labour and Social Protection before the Departmental Committee on Labour and Social Welfare)

- (iii) **Question No.426/2021** by the Member for Nakuru Town East (Hon. David Gikaria) on the status of the payment of compensation for the loss of life which was awarded by a *Nakuru Law Court* vide case No. 11540F2019 to the family of the late *John Munjiri Waikwa* of ID No. 11474127 who passed on following a tragic road accident at *Kikopey, Nakuru County* on 22nd March, 2019;

(Question for Written Reply by the Attorney General)

- (iv) **Question No.429/2021** by the Member for Kirinyaga Central (Hon. John Wambugu) on measures put in place to urgently bridge the digital literacy divide among learners particularly, those in the public schools across the country, specifically in Kirinyaga Central Constituency;

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

- b) The following Question was dropped from the Order Paper as it had been asked at a previous sitting –
- (i) **Question No.434/2021** by the Member for Kitui Rural (Hon. Mboni Mwalika) regarding the details of ownership of all business names and mobile money pay bill numbers registered under various networks that undertake betting and gaming activities in the country.

6. STATEMENTS PURSUANT TO STANDING ORDER 44(2)

- (a) The following statements were requested pursuant to Standing Order 44(2)(c) -
- (i) The Member for Mvita (Hon. Abdullswamad Nassir) requested for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning concerning the use of the Standard Gauge Railway (SGR) for transport of goods from Mombasa to the Nairobi Inland Container Depot (ICD);
- (ii) The Member for Kabete (Hon. Githua Wamacukuru) requested for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the design flaws in the Western Bypass under construction in Kiambu County;
- (iii) The Member for Kamukunji (Hon. Yussuf Hassan) requested for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the mysterious escape of Wanjala Masten, a suspected child killer from Jogoo Police Station; and
- (b) Statement made pursuant to Standing Order 44(2)(a) –

Pursuant to Standing Order 44 (2)(a), the Majority Party Whip (Hon. Emmanuel Wangwe) issued a statement on behalf of the House Business Committee regarding the Business of the House for the week commencing Tuesday, October 19, 2021.

7. **PROCEDURAL MOTION – EXEMPTION OF BUSINESS FROM THE PROVISIONS OF STANDING ORDERS**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 256 relating to Exemption of business from the Standing Orders, this House **resolves to exempt** the Report of the Departmental Committee on Finance and National Planning on the Public Petition No. 39 of 2021 regarding **Review of Abnormal Increments in Prices of Petroleum and Petroleum Products in the Country**, and **Public Petition No. 40 of 2021** regarding **Amendment to the Finance Act, 2018 in Order to Address Drastic Increase in Prices of Petroleum and Petroleum Products**, *laid on the Table of the House on Tuesday, October 12, 2021*, from the provisions of Standing Order 227 (2) (*Committal of Petitions*) **so as to allow debate on the report of the Committee.**

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

No debate arising;

Question put and agreed to.

8. **MOTION – SESSIONAL PAPER NO. 1 OF 2021 ON THE NATIONAL WATER POLICY**

Motion made and Question proposed -

THAT, this House **adopts** the Report of the Departmental Committee on Environment and Natural Resources on Sessional Paper No. 1 of 2021 on the National Water Policy, *laid on the Table of the House on Wednesday, August 4, 2021*, and further approves Sessional Paper No. 01 of 2021.

*(Chairperson, Departmental Committee on Environment and Natural Resources –
13.10.2021)*

Debate on the Motion having been concluded on Wednesday, October 13, 2021 (Afternoon sitting);

Question put and agreed to.

9. **MOTION – CONSIDERATION OF THE PETROLEUM DEVELOPMENT LEVY (AMENDMENT) ORDER, 2021**

Motion made and Question proposed -

THAT, this House **adopts** the Report of the Committee on Delegated Legislation on its consideration of the Petroleum Development Levy (Amendment) Order, 2021, *laid on the Table of the House on Wednesday, September, 29, 2021*, and pursuant to the provisions of section 18 of the Statutory Instruments Act, 2013 and Standing Order 210 (4)(b), **annuls in entirety** the Petroleum Development Levy (Amendment) Order, 2021, published as *Legal Notice No. 77 of 2021*.

(Chairperson, Committee on Delegated Legislation – 13.10.2021)

Debate on the Motion having been concluded on Wednesday, October 13, 2021 (Afternoon sitting);

Question put and agreed to.

10. MOTION – REVIEW OF DRASTIC INCREMENTS OF PRICES OF PETROLEUM AND PETROLEUM PRODUCTS IN THE COUNTRY

Motion made and Question proposed –

THAT, the House **adopts** the Report of the Departmental Committee on Finance and National Planning on the Public Petition No. 39 of 2021 regarding **Review of Abnormal Increments in Prices of Petroleum and Petroleum Products in the Country, and Public Petition No. 40 of 2021** seeking **Amendment to the Finance Act, 2018 in Order to Address Drastic Increase in Prices of Petroleum and Petroleum Products**, laid on the Table of the House on Tuesday, October 12, 2021.

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

(Change of Chair from the Speaker to the First Chairperson)

Rising in his place on a Point of Order under Standing Order 95, the Member for Bomachoge Borabu (Hon. Zadoc Abel Ogutu) claimed to move that *“the Mover be now called upon to reply”*;

And the First Chairperson acceding to the claim;

Question put and negatived;

Thereupon, debate resumed;

Mover replied;

Question put and agreed to.

11. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Second Chairperson of Committees in the Chair

(i) The Central Bank of Kenya (Amendment) Bill (National Assembly Bill No. 10 of 2021)

Clause 3 - agreed to;

Clause 4 - amendment proposed-

THAT, clause 4 of the Bill be amended–

(a) in the proposed new clause 33R by–

(i) deleting paragraph (b);

(ii) deleting paragraph (c);

(iii) deleting the words “and business models” appearing in paragraph (d);

(iv) inserting the following new paragraph immediately after paragraph (c)-

(ca) determine parameters for pricing of digital credit;

(b) in the proposed new clause 33S -

(i) by inserting the following new subsection immediately after subsection (2)-

- (2A) An application under subsection (2) shall be accompanied by-
 - (a) a copy of the certificate of incorporation under the Companies Act;
 - (b) a certified copy of the applicant's memorandum and articles of association;
 - (c) a notification of the company's registered address;
 - (d) a certificate of issued pursuant to section 19 of the Data Protection Act;
 - (e) a statement as to compliance with the provisions of Part VII of the Consumer Protection Act; and
 - (f) such other documents as may be prescribed by the Bank.

(2B) Without prejudice to subsection (2A)(e), an applicant shall provide the terms and conditions applicable to the digital credit and which must be accepted by the borrower before activation of a mobile loan account.

(2C) The Bank may grant or reject an application for a licence by written notice addressed to the applicant within sixty days from the date of receipt of an application.

(2D) A licence granted under this section shall remain valid unless suspended or revoked by The Bank in accordance with this Act, but upon expiry of the prescribed period may be renewed.

(2E) The Bank may suspend or revoke a licence by written notice to the holder of the licence, if-

- (a) the licensee does not meet the conditions prescribed by The Bank;
- (b) the licensee is in breach of subsection (2A) or the conditions of the Data Protection Act or the Consumer Protection Act;
- (c) the licensee is found to have given false information during the application;
- (d) the licensee goes into liquidation or an order for winding up is issued;
- (e) the licensee carries out activities outside the scope of the licensed activities;
- (f) the licensee is in breach of any of the provisions of this Act and the regulations made thereto relating to digital lending.

(2F) Without prejudice to subsection (2D), an applicant may apply for renewal of the licence at least three months before expiry of the licence.

(2G) The Bank shall cause to be published in the Gazette and The Bank's website –

- (a) before the thirtieth day of March in each year, the names and addresses of all licenced digital lenders under this section;
- (b) within thirty days of suspension or revocation of a license, the name and address of the digital lenders whose licences have been suspended or revoked.

(c) by inserting the following clauses immediately after the proposed new clause 33S-

33T. The Bank shall consult with other regulators including but not limited to-

- (a) the Office of the Data Protection Commissioner; and
- (b) the Communications Authority.

33U. Notwithstanding the provisions of this section, a digital lender shall disclose any positive or negative information of its customers to the licensed credit reference bureaus, where such information is reasonably required for the discharge of the functions of the digital lenders and the licensed credit reference bureaus.

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Clause 4 - as amended agreed to;

Clause 5 - agreed to;

Clause 6 - amendment proposed-

THAT, clause 6 of the Bill be amended-

(a) in subsection (3) by-

- (i) deleting the word “registration” appearing in paragraph (a) and substituting therefor the word “licensing”;
- (ii) deleting paragraph (b);
- (iii) inserting the following new paragraph immediately after paragraph (h)-
(ha) dispute resolution mechanisms;

(b) by inserting the following new subsection immediately after subsection (3)-

(4) Without prejudice to the generality of subsection (3)(i) , The Bank may, in regulations, prescribe penalties to be paid by digital lenders who fail or refuse to comply with the provisions of this Act and the regulations made thereunder relating to digital credit, which penalties shall not exceed five hundred thousand shillings, and may prescribe additional penalties, not exceeding ten thousand shillings in each case for each day or part thereof during which such failure or refusal continues.

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Clause 6 - as amended agreed to;

Clause 7 - amendment proposed-

THAT, clause 7 of the Bill be amended in the proposed new clause 59 by deleting subsection (2) and substituting therefor the following new subsection-

(2) Any person who before the coming into force of this Act was in digital credit business and is not regulated under any other law, shall apply for a licence in accordance with section 33S, within six months of publication of the regulations under subsection (1).

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Clause 7 - as amended agreed to;

Clause 2 - agreed to;

Title - agreed to;

Clause 1 - agreed to;

Bill to be reported with amendments.

(ii) **The Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No. 23 of 2021)**

Clause 3 - amendment proposed-

THAT, the Bill be amended by deleting the clause 3 and substituting therefor the following new clause-

Amendment of
section 3 of
Cap. 164.

3.The principal Act is amended in section 3 by -

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

(1) Any person or body of persons who have lawfully constituted themselves for the purpose of forming a trust may apply to the Principal Registrar for a certificate of incorporation.

(b) deleting subsection (2) and substituting therefor the following subsections-

(2) The Principal registrar shall within sixty days of receipt of an application for incorporation of a trust grant or reject the application.

(2A) Where an application is rejected, the Principal registrar shall give written notice to the applicant and the notice shall state the reason for rejecting the application.

(2B) Where an application for incorporation is approved by the Principal registrar, he may grant a certificate accordingly, subject to such conditions or directions.

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question of the amendment put and agreed to;

Clause 3 - as amended agreed to;

Clause 4 - amendment proposed-

THAT, clause 4 of the Bill be amended-

- (a) in the proposed clause 3B (2) by deleting paragraph (b) and substituting therefor the following paragraph-
 - (b) the objects are beneficial to the general public or section of the public;
- (b) in the proposed clause 3C (1) by inserting the words “non-charitable” immediately after the word “A”;
- (c) in the proposed clause 3D in subsection (2) -
 - (i) by deleting the words “other than the settlor” appearing in paragraph (a);
 - (ii) by deleting the word “multiple” appearing in paragraph (b);
- (d) in the proposed clause 3E -
 - (i) in subsection (2) by inserting the words “beneficially or” immediately before the word “legally”;
 - (ii) in subsection (3) by inserting the word “title” immediately before the word “better”;
- (e) in the proposed clause 3F by-
 - (i) renumbering the second subsection (4) appearing after subsection (5) as (6);
 - (ii) inserting the following new subsection immediately after subsection (6)-
 - (7) The provision of subsection 2(b) do not apply to a trust established under section 3C.
- (f) in the proposed clause 3J -
 - (i) by deleting subsections (1) and (2) and substituting therefore the following new subsections-
 - (1) An enforcer may be appointed in accordance with the terms of the trust.
 - (2) The functions of an enforcer shall be to-
 - (a) enforce the terms of the trust;
 - (b) inquire into the status of implementation of the trust;
 - (c) require the trustee to take remedial action, where there is breach of the terms of the trust;
 - (d) report to the settlor or the beneficiaries any financial or other breaches by the trustees; and
 - (e) pursue legal actions against the trustees, whether criminal or civil.
 - (2A) The enforcer may act in the place of the trustees during the hearing and determination of any suit under subsection (2).
 - (ii) by inserting the following subsection immediately after subsection (7)-
 - (8) The trustees shall notify the Principal Registrar, in writing, of any change of enforcers at least thirty days from the date of the notice under subsection (7).

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Clause 4 - as amended agreed to;

Clause 5 - amendment proposed-

THAT, the Bill be amended by deleting clause 5 and substituting therefor the following new clause-

Amendment of section 6 of Cap. 64

5. Section 5 of the principal Act is amended –

- (a) by deleting the word “Minister” and substituting therefor the words “Principal Registrar” wherever it appears;
- (b) in subsection (1) by deleting the words “or by any conditions or directions inserted by the Minister under subsection (2) of section 3; and
- (c) by deleting subsection (2).

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Clause 5 - as amended agreed to;

Clauses 6, 7 and 8 - agreed to;

Clause 9 - amendment proposed-

THAT, the Bill be amended by deleting clause 9 and substituting therefor the following new clause –

Amendment of section 16 of Cap. 164

9. Section 16 of the principal Act is amended -

- (a) by deleting the word “Minister” wherever it appears and substituting therefor the words “Principal Registrar”;
- (b) in subsection (2) by deleting the words -

“whereupon any land vested in it shall escheat-

- (a) if the land is trust land, to the county council in whose are of jurisdiction the land is situated;
- (b) if the land is not Trust land, to the Government:

Provided that this shall not apply where such corporate body is wound up under the provisions of section 33 of the Societies Act (Cap.108).”

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Clause 9 - as amended agreed to;

Clause 10 - agreed to;

Clause 2 - amendment proposed-

THAT, clause 2 of the Bill be amended –

- (a) in the definition of the term “enforcer” by inserting the words “or replaced” immediately after the word “appointed, and by inserting the word “of” immediately after the word “benefits”; and
- (b) in the definition of the term “family trust” by deleting the expression “section 3C” and substituting therefor the expression “section 3D”;

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question of the amendment put and agreed to;

Clause 2 - as amended agreed to;

Title - agreed to;

Clause 1 - agreed to;

Bill to be reported with amendments.

12. HOUSE RESUMED – the First Chairperson in the Chair

(i) The Central Bank of Kenya (Amendment) Bill (National Assembly Bill No. 10 of 2021)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report.

(Chairperson, Departmental Committee on Finance and National Planning)

Question deferred to another day.

(ii) The Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No. 23 of 2021)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report.

(Chairperson, Departmental Committee on Finance and National Planning)

Question deferred to another day.

13. MOTION - REPORT ON A PUBLIC PETITION BY RESIDENTS OF WAJIR AND GARISSA COUNTIES REGARDING LACK OF ACCESS TO CITIZEN REGISTRATION SERVICES

Motion made and Question proposed –

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its consideration of a Public Petition by residents of Wajir and Garissa Counties regarding lack of access to Citizen Registration Services, *laid on the Table of the House on Wednesday, August 11, 2021.*

(Chairperson, Departmental Committee on Administration and National Security)

Debate arising;

And the time being Seven o'clock, the First Chairperson adjourned the House without Question put pursuant to the Standing Orders.

14. HOUSE ROSE - at Seven o'clock

MEMORANDUM

The Speaker will take the Chair
Tuesday, October 19, 2021 at 2:30 p.m.

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