



**REPUBLIC OF KENYA**  
**TWELFTH PARLIAMENT – FIFTH SESSION**  
**THE NATIONAL ASSEMBLY**  
**VOTES AND PROCEEDINGS**

**WEDNESDAY, OCTOBER 13, 2021**

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

The following notice of Motion were given:

- **THAT**, further to the resolutions of the House of Tuesday, 5<sup>th</sup> December, 2017, Wednesday, 15<sup>th</sup> July, 2020, 11<sup>th</sup> February 2021 and 4<sup>th</sup> May 2021 appointing Members to various Committees and pursuant to the provisions of Standing Order 173, this House further approves the appointment of the following Members to the respective Committees specified hereunder –
  - (i) The Hon. John Munene Wambugu, MP to move from the Departmental Committee on Justice and Legal Affairs to the Departmental Committee on Administration and National Security;
  - (ii) The Hon. Daniel Kipkogei Rono, MP to be appointed to the Departmental Committee on Justice and Legal Affairs;
  - (iii) The Hon. Gathoni Wamuchomba, MP to move from the Departmental Committee on Transport, Public Works and Housing to the Departmental Committee on Agriculture and Livestock;
  - (iv) The Hon. Moses Malulu Injendi, MP to move from the Committee on Regional Integration to the Departmental Committee on Transport, Public Works and Housing;
  - (v) The Hon. Benjamin Gathiru Mwangi, MP to move from the Select Committee on National Cohesion and Equal Opportunity to the Committee on Regional Integration;
  - (vi) The Hon. George Ndung'u Koimburi, MP to be appointed to the Select Committee on National Cohesion and Equal Opportunity;
  - (vii) The Hon. John Njuguna Wanjiku, MP to be appointed to the Select Committee on Implementation; and

- (viii) The Hon. Mohammed Lokiru Ali, MP to move from the Departmental Committee on Energy to the Departmental Committee on Education and Research; and
- (ix) The Hon. Pavel Oimeke, MP to be appointed to the Departmental Committee on Energy.

*(The Majority Party Whip)*

## 5. QUESTIONS

(a) The following Questions were asked –

- (i) **Ordinary Question No.388/2021** by the Member for Tigania East (Hon. Josphat Kabeabea) regarding the delayed commencement of the upgrading of the *Mikinduri-Kunati-Gatithine* Road in Tigania East Constituency, over 4 years since the contract for the works was awarded to *M/s. Elite Construction Company*.

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

- (ii) **Ordinary Question No. 398/2021** by the Member for Rarieda (Hon. (Dr.) Otiende Amollo) regarding the status of construction of the *Luanda - Akado - Kalandin Road (RWC 119)* under *Low Volume Seal* tarmacking in Rarieda Constituency, which stalled at *Nyandiwa Bridge*.

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

- (iii) **Ordinary Question No. 421/2021** by the Nominated Member (Hon. Godfrey Osotsi) regarding the reasons why Kenya Power and Lighting Company Limited is operating without insurance of critical assets under *Public Liability (with Consequential Loss)* insurance cover, and fire and perils cover for 122 sub-stations across the country, thereby exposing employees and strategic public installations worth over Kshs. 37 billion to major risks in case of accidents.

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

(b) The following Question was deferred –

- (i) **Ordinary Question No. 405/2021** by the Member for Meru County (Hon. Bishop Kawira Mwangaza) regarding steps that the Ministry of Devolution & ASALs is taking to ensure food security in Meru County, particularly during natural disasters such as floods, drought and famine.

## 6. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

### IN THE COMMITTEE

The Second Chairperson in the Chair

### The Sugar Bill (National Assembly Bill No. 68 of 2019)

*Resumption from New Clause*

New Clause 4A - amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 4—

- Functions of county governments.      **4A.** The County Government shall—
- (a) issue sugar cane nursery certificates;
  - (b) offer and coordinate extension services on sugar production and milling in the respective county;
  - (c) in collaboration with the Board and law enforcement agencies, enforce regulations within the county;
  - (d) monitor and report incidences of pests and disease outbreaks and take appropriate action in collaboration with the Board and other relevant government agencies; and
  - (e) establish an efficient road network for the movement of sugarcane, delivery of other services and general development of the sugar industry.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **4A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **4A** be part of the Bill;

Question put and agreed to;

New Clause 4A - agreed to.

New Clause 5A - amendment proposed-

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 5—

Term of appointment of **5A.** (1) A person appointed as chairperson or a member of the Board under section 5(1) (b), (c) and (e) shall serve for a term of three years renewable for one further term.

(2) Members of the Board under section 5(1)(b), (c) and (e) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **5A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **5A** be part of the Bill;

Question put and agreed to;

New Clause 5A – agreed to.

New Clause 5B - amendment proposed-

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 5—

Vacation of office. **5B.** A person shall cease to be a member of the Board of if the person—

- (a) is absent from three consecutive meetings of the Board without notifying the chairperson in writing;
- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing addressed to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of exceeding six months without the option of a fine;
- (e) is declared bankrupt;
- (f) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (g) dies.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **5B** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **5B** be part of the Bill;

Question put and agreed to;

New Clause 5B – agreed to.

New Clause 7A – amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 7—

Committees of **7A.** (1) The Board may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

(2) The Board may co-opt to sit in the committees established under subsection (1), such other persons whose knowledge and skills are necessary for the performance of the functions of the Board.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **7A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause 7A be part of the Bill;

Question put and agreed to;

New Clause 7A – agreed to.

New Clause 9A – amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after Clause 9—

Headquarters **9A.** (1) The headquarters of the Board shall be in Kisumu County.

of the Board. (2) The Board may establish offices in other parts of the country as the Board may determine.

*(Member for Kanduyi)*

Motion made and Question proposed –

**THAT**, New Clause **9A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **9A** be part of the Bill;

Question put and agreed to;

New Clause 9A – agreed to

New Clause 15A – amendment proposed-

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

Sugar **15A.** (1) A person who imports sugar into Kenya shall, prior to Import. importation —

- (a) provide evidence that the sugar they intend to import is not available in the local market;
- (b) provide a sample of the sugar to be imported and pre-import verification certificate from the country of origin; and
- (c) obtain pre-import approval from the Board.

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

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **15A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **15A** be part of the Bill;

Question put and agreed to;

New Clause 15A – Negatived

New Clause 15B – amendment proposed-

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

Industrial sugar. **15B.** (1) A licenced sugar miller shall be licenced by the board to carry out the business of processing industrial sugar.

(2) The Board shall regulate the processing of industrial sugar.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause 15B be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause 15B be part of the Bill;

Question put and agreed to;

New Clause 15B – agreed to

New Clause 16A – amendment proposed-

**THAT**, the Bill be amended by inserting the following new Parts immediately after Part III—

**PART IIIA- ESTABLISHMENT OF THE KENYA SUGAR RESEARCH INSTITUTE**

Establishment of the Kenya Sugar **16A.** (1) There is hereby established a body to be known as the Kenya Sugar Research Institute.

Research  
Institute.

(2) The Institute is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause 16A be part of the Bill;

Question put and agreed to;

New Clause 16A - agreed to

New Clause 16B - amendment proposed-

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

Functions of the Institute. **16B.** (1) The Institute shall—

- (a) promote, co-ordinate and regulate research in sugar and sugar diseases; and
- (b) expedite equitable access to research information, resources and technology and promote the



application of research findings and technology in the development of sugar.

(2) For the purpose of carrying out its functions, the Institute shall—

- (a) formulate policy and make policy recommendations to the Cabinet Secretary on sugar research;
- (b) prioritise areas for, and co-ordinate, sugar research in Kenya in line with the national policy on sugar;
- (c) determine and advise the Government on the resource requirements for sugar research in Kenya both at the national and county level;
- (d) regulate, monitor and ensure that all sugar research undertaken by other institutions or persons undertaking sugar research is consistent with the national priorities specified in the relevant policy documents;
- (e) formulate or approve medium and long term research plans, strategies and budgets of the Institute;
- (f) provide grants to institutions or persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Institute;
- (g) support and promote the training and capacity building in relation to agricultural research;
- (h) liaise with and ensure the co-ordination of institutions, agencies and persons involved in sugar research;
- (i) establish platforms for the purposes sharing of research information, advancing research and transfer of technology and dissemination of information relating to advancements made in sugar research;
- (j) conduct training in industry best practice and value-addition;
- (k) ensure continuance of performance improvement in the field of sugar research;
- (l) breed sugarcane varieties suited for various agro-ecological areas of Kenya;
- (m) conduct research on nutritional requirements of sugarcane in order to provide recommendations on the appropriate fertilizers;
- (n) appraise technologies on land preparation, drainage and water management for economical cane production;
- (o) study and monitor of pests and diseases that affect sugarcane and recommending appropriate

control strategies;

- (p) develop agronomic packages for sugarcane maintenance and management;
- (q) institute socio-economic investigations to improve human resource management and enhance development of the sugar industry as an agribusiness;
- (r) test, design and evaluate farm machinery and factory equipment for efficient sugar production;
- (s) promote the transfer of sugar technology based on applied research through relevant extension mechanisms;
- (t) foster research on sustainable productivity, environmental issues, human safety at field and factory levels;
- (u) collaborate with the Government, the industry, universities and other national and international organizations for the purpose of furthering the Institute's mission;
- (v) analyse soil and plant samples for advisory purposes;
- (w) offer modular courses on various aspects of cane management and practices; and
- (x) perform such other function as may be conferred on it by this Act or any other written law.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16B** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause 16B be part of the Bill;

Question put and agreed to;

New Clause 16B – agreed to

New Clause 16C – amendment proposed-

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

Management                   **16C.** The Management of the Institute shall vest in a  
of           the Board which shall consist of—  
Institute.

- (a) a chairperson appointed by the Cabinet Secretary who shall have a background in agricultural research or related field;
- (b) three persons nominated by the farmers from each of the sugar catchment regions under the Second Schedule;
- (c) two persons nominated by the farmers from each of the sugar catchment regions under the Second Schedule;
- (d) the Principal Secretary for the time being responsible for the National Treasury or a representative appointed in writing;
- (e) the chief executive officer of the Board;
- (f) the chief executive officer of the Kenya Agricultural Livestock and Research Organization; and
- (g) the Director General who shall be an *ex officio* member.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16C** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause 16C be part of the Bill;

Question put and agreed to;

New Clause 16C     -     agreed to

New Clause 16D     -     amendment proposed-

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

Application.                   **16D.** The provisions of section 5A, 5B, 7, 8 and 9 shall  
apply to the Board of the Institute with necessary modification.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16D** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause 16D be part of the Bill;

Question put and agreed to;

New Clause 16D – agreed to

New Clause 16E – amendment proposed-

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

Funds of the Institute. **16E.** The funds of the Institute shall consist of-

- (a) monies remitted by the Board from the sugar development levy;
- (b) any monies received by the Institute from grants and donations; and
- (c) monies from any other source as approved by the responsible Ministry.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16E** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **16E** be part of the Bill;

Question put and agreed to;

New Clause **16E** – agreed to

New Clause 16F – amendment proposed-

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

Director                   **16F.** (1) There shall be a Director General of the Institute General who shall be appointed by the Board of the Institute whose of the terms and conditions of service shall be determined by the Institute. Board of the Institute in the instruments of appointment or otherwise in writing from time to time.

(2) A person shall be qualified for appointment under this section if the person-

- (a) holds a degree from a university recognized in Kenya in agricultural research, soil and seed research, soil science or related field;
- (b) has at least five years' experience in managerial capacity; and
- (c) meets the provisions of Chapter six of the Constitution.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16F** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **16F** be part of the Bill;

Question put and agreed to;

New Clause **16F**            -            agreed to

**PART IIIB – APPOINTMENT OF CROP INSPECTORS**

New Clause **16G**            -            amendment proposed-

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

Appointment of crop inspectors.                   **16G.** (1) The Board may appoint qualified persons to be crop inspectors for the purposes of this Act.

(2) For purposes of subsection (1), the Board may, by regulations, prescribe the qualifications for appointment as a

crop inspector.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16G** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **16G** be part of the Bill;

Question put and agreed to;

New Clause 16G – agreed to

New Clause 16H – amendment proposed-

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

Entry and inspection. **16H.** An inspector or a person duly authorized in writing in that behalf by the Board may, at all reasonable times and upon production of such authority to any person so requesting—

- (a) enter any land or buildings occupied by the holder of a licence issued under this Act, or a person registered under this Act;
- (b) make such inspection and enquiries as the person may deem necessary for ascertaining whether the provisions of this Act or the terms and conditions of the respective licence are being complied with; and
- (c) may require any person found thereon to give such information as the person may require.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16H** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **16H** be part of the Bill;

Question put and agreed to;

New Clause 16H - agreed to

New Clause 16I - amendment proposed-

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

Powers of entry. **16I.** (1) For the purposes of this Act, an inspector who has reasonable grounds may—

- (a) at any reasonable time, enter upon any land, premises or vehicle;
- (b) take such persons and things as the inspector considers necessary;
- (c) perform the functions or exercise the powers conferred by this Act or any other written law;
- (d) make enquiries or carry out a search to ascertain if this Act is being complied with;
- (e) demand the production by a licence holder of the licence for examination;
- (f) seize and remove any article or thing in respect of which the inspector has reasonable grounds for believing that an offence under this Act is being or has been committed; or
- (g) do any other thing authorized under this Act.

(2) The owner or occupier of any land or a person in control of any premise or a vehicle which an inspector has entered under subsection (1) shall render such reasonable assistance as may be required by the inspector.

(3) A person who refuses, unreasonably delays or fails to comply with a requirement under subsection (2) commits an offence.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16I** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **16I** be part of the Bill;

Question put and agreed to;

New Clause 16I - agreed to

New Clause 16J - amendment proposed-

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

Obstruction of inspectors. **16J.** (1) A person shall not prevent, hinder or obstruct an inspector in performance of the functions, and duties or exercise of powers conferred by this Act.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or both.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **16J** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **16J** be part of the Bill;

Question put and agreed to;

New Clause 16J - agreed to

New Clause 24A - amendment proposed-

**NEW PART IVA**

**THAT**, the Bill be amended by inserting the following new Part immediately after Part IV—

**PART IVA- ESTABLISHMENT OF THE SUGAR ARBITRATION TRIBUNAL**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24-

Establishment of the Sugar Arbitration **24A.** (1) There is hereby established Tribunal to be known as the Sugar Arbitration Tribunal.



Tribunal.

(2) The Tribunal shall consist of—

- (a) a chairperson appointed by the Chief Justice who shall be a person qualified to be appointed as a judge of the High Court; and
- (b) four other members, being persons with expert knowledge of the matters likely to come before the Tribunal and who are not persons with a direct material interest in the sugar industry, all of who shall be appointed by the Chief Justice in consultation with the Attorney-General and the Council of County Governors.

(3) The Chairperson and members of the Tribunal shall serve on a part-time basis.

(4) The members of the Tribunal appointed under subsection (2) shall hold office for such period, not exceeding three years, on such terms and conditions as shall be specified in the instrument of appointment but shall be eligible for re- appointment for one further term of a period not exceeding three years.

(5) A person shall not be qualified to be appointed as a member of the Tribunal if that person is a public servant or takes an active part in the activities of a political party.

(6) A person shall not qualify for appointment under this section unless the person has met the requirement of Chapter Six of the Constitution.

(7) The provisions set out in the Third Schedule shall have effect with respect to the meetings and procedure of the Tribunal.

(8) Except as provided in the Third Schedule, the Tribunal shall regulate its own procedure as to the conduct of meetings.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **24A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **24A** be part of the Bill;

Question put and agreed to;

New Clause 24A - agreed to

New Clause 24B - amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24-

Jurisdiction of the Tribunal. **24B.** (1) The Tribunal shall determine—

- (a) disputes between sugarcane farmers;
- (b) disputes between sugarcane farmers and the following-
  - (i) out grower institutions;
  - (ii) millers;
  - (iii) growers; or
  - (iv) other interested party;
- (c) disputes relating to cane pricing;
- (d) disputes relating to contract farming,

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **24B** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **24B** be part of the Bill;

Question put and agreed to;

New Clause 24B - agreed to

New Clause 24C - amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24-

Determination of disputes.

**24C.** (1) The Tribunal shall determine any dispute before it expeditiously, but in any case, shall determine a dispute within a period of three months from the date the dispute is lodged.

(2) An Appeal shall lie from the decision of the Tribunal to the High Court on points of law and facts and on points of law to the Court of Appeal.

(3) A decision of the Tribunal shall be enforced in the same manner as a decision of a Magistrates Court.

(4) The Tribunal shall apply the rules of evidence and procedure under the Evidence Act (Cap. 80) and the Civil Procedure Act (Cap. 21), with the necessary modifications, while ensuring that its proceedings do not give undue regard to procedural technicalities.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **24C** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **24C** be part of the Bill;

Question put and agreed to;

New Clause 24C - agreed to

New Clause 24D - amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24-

Powers of the Tribunal.

**24D.** The Tribunal shall have the powers of the High Court—

- (a) to administer oaths to the parties and witnesses to the proceedings;
- (b) to summon witnesses and to require the production of documents;
- (c) to order the payment of costs; and the provisions of the law relating to Commissions of Inquiry in

Kenya with respect to—

- (i) the protection of the members of the Tribunal from suit;
- (ii) the form of summonses to witnesses;
- (iii) to giving or fabricating of false evidence;
- (iv) the duty and indemnity of witnesses, and the penalty for contumacy, insult or interruption of proceedings; and
- (v) the appearance of advocates; shall with any necessary adaptations or modifications, apply to the members of, the witnesses before, and the proceedings before, the Tribunal in like manner as they apply to Commissions of Inquiry.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **24D** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause 24D be part of the Bill;

Question put and agreed to;

New Clause 24D – agreed to

New Clause 24E – amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24-

Removal of members of the Tribunal. **24E.** A member of the Tribunal may be removed if the member—

- (a) becomes an undischarged bankrupt;
- (b) is convicted of a criminal offence and sentenced to imprisonment for a period exceeding six months without the option of a fine;
- (c) is incapacitated by reason of prolonged physical or mental illness from performing the duties of the office;
- (d) violates the Constitution; or

(e) is otherwise unable or unfit to discharge the functions of the office.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause 24E be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause 24E be part of the Bill;

Question put and agreed to;

New Clause 24E – agreed to

New Clause **24F** – amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24-

Vacancy. **24F.** Where the office of any member becomes vacant, whether by death or otherwise, the Chief Justice may appoint another person to be a member of the Tribunal for the remainder of the term of the member whose vacancy cause the appointment.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **24F** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **24F** be part of the Bill;

Question put and agreed to;

New Clause **24F** – agreed to

New Clause **24G** – amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24-

Secretary of **24G.** The Chief Justice shall appoint a Secretary and the Tribunal. such other staff of the Tribunal necessary for the proper functioning of the Tribunal.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **24G** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **24G** be part of the Bill;

Question put and agreed to;

New Clause **24G** – agreed to

New Clause **24H** - amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24-

Remuneration of members and staff of the Tribunal. **24H.** (1) The remuneration of the staff of the Tribunal and the expenses of the Tribunal shall be paid out of monies allocated by the National Assembly to the Judiciary Fund.

(2) The Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission on the recommendation of the Salaries and Remuneration Commission.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **24H** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **24H** be part of the Bill;

Question put and agreed to;

New Clause **24H** - agreed to

New Clause **26A** - amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 26—

Inspection for quality and safety.

**26A.** (1) The Board shall carry out physical inspection of premises licenced under section 15 quarterly to ensure that safety and health standards are followed.

(2) Every person licenced under this Act shall—

- (a) not discharge any, affluent dangerous materials, substances, oil, oil mixtures into land, water, air, or aquatic environment;
- (b) not release smoke or any air pollutant to the air that pollutes the environment;
- (c) manage any hazardous waste and materials;
- (d) not import any hazardous waste;
- (e) not mislabel any sugar or jaggery; and
- (f) not aid or abet illegal trafficking of sugar or related substances.

(2) When an offence under this section, is committed by a body corporate, the body corporate and every director or officer of the body corporate who ought to have had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or to an imprisonment for a term not exceeding five years.

(3) In addition to the sentence under subsection (2), the Court may order for the revocation of a licence.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **26A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **26A** be part of the Bill;

Question put and agreed to;

New Clause **26A** – agreed to

New Clause **30A** – amendment proposed-

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 30—

Representative of a grower in a private milling company. **“30A.** (1) Notwithstanding the provisions of any other Act, each private sugar milling company shall have a representative of the growers in its board of directors.

(2) In appointing a director representing the growers under subsection (1), the milling company shall consider in the first instance, the leaders of the out-grower institutions within the sugar-cane catchment area in which the sugar mill is located.

(3) A person appointed as a director under subsection (1), shall serve for a term not exceeding two years.”

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT**, New Clause **30A** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, New Clause **“30A** be part of the Bill;

Question put and agreed to;

New Clause **30A** – agreed to

First Schedule – amendment proposed-

**THAT**, the First Schedule to the Bill be amended—



(a) by inserting the following heading:

**“PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD”**

(b) in paragraph 2 by—

(i) deleting the words “seven members” appearing in sub-paragraph (4) and substituting therefor the words “two thirds of the members of the Board provided that in the case of a tie, the chairperson shall have a casting vote.”

(ii) deleting subparagraph (5) and substituting therefor the following new subparagraph—  
“(5) The chairperson shall preside at every meeting at which he or she is present but, in his or her absence, the members shall elect one of their members to preside who shall with respect to that meeting and the business transacted thereat have all the powers of the chairperson.”

(iii) by deleting subparagraph (6);

(iv) deleting the words “or the vice chairperson” appearing in sub-paragraph (7) a immediately after the words “the Chairperson”

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to

**First Schedule** - as amended agreed to.

**Second Schedule** - amendment proposed-

**THAT**, the Second Schedule to the Bill be amended—

(a) in paragraph 1 by deleting the word “agreements” appearing before the word “define” and substituting therefor the word “guidelines”;

(b) in paragraph 2 —

(i) by deleting the word “agreements” appearing at the opening paragraph and substituting therefor the word “guidelines”;

(ii) by deleting the definition of the “Kenya Sugar Research Foundation”;

(iii) by deleting the definition “Kenya Sugarcane Growers Association”

(iv) by deleting the definition “Kenya Sugar Research Foundation” and substituting therefor the following new definition—

“Kenya Sugar Research Institute” means the Kenya Sugar Research Institute established under Part IIIA of this Act;

(v) by inserting the following new definition—

“sugar lobby group” means a registered group of people comprising of farmers and growers from the sugar catchment areas championing the rights of sugar stakeholders;

(c) in paragraph 3 by deleting sub paragraph (f);

(d) by deleting paragraph 4;

(e) in paragraph 5—

(i) by deleting subparagraph (g) and substituting therefor the following new subparagraph—

- “(g) make representations to the Sugar Cane Pricing Committee;”
- (ii) by deleting the words “Kenya Sugar-cane Growers Association” appearing in subparagraph (h) and substituting therefor the words “registered sugar lobby groups”
- (f) in paragraph 6—
  - i) by deleting the expression “30 days” appearing in subparagraph (d) and substituting therefor the expression “15 days”;
  - (ii) by inserting the following subparagraph immediately after paragraph (f)—  
“(fa) ensure that mobile weighbridges are closer to growers;”
  - (iii) by deleting paragraph (h)
- (g) in paragraph 7 in subparagraph 2(b) by deleting the word “zones” appearing at the end of the subparagraph and substituting therefor the words “sugar catchment region”;
- (h) by deleting paragraph 8 and substituting therefor the following new paragraph—

Sugar Cane Pricing Committee. 8. (1) There shall be a Sugar Cane Pricing Committee (hereinafter referred to as “the Committee”).  
 (2) The Committee shall comprise of —

- (a) the Chief Executive Officer of the Board;
- (b) two persons nominated by the Kenya Sugar Manufacturers Association;
- (c) three persons nominated by the sugar cane growers form the sugar catchment region;
- (d) one representative from the sugar lobby groups;
- (e) the Principal Secretary responsible for matter related to agriculture or a representative appointed in writing;
- (f) one representative from county government nominated by the Council of Governors; and

(2) The main objectives of the Committee shall be to—

- (a) review sugar cane prices;
- (b) provide a mechanism that remunerates farmers for other products delivered from the processing of cane;
- (c) ensure adherence to negotiated cane pricing formula;
- (d) transition to payment based on quality; and
- (e) enforcement of contracts between farmers and millers.

(4) The Committee shall come up with the pricing formula and in doing so shall take into account the—

- (a) pricing mechanisms for all other cane related charges paid by the farmer; and
- (b) an index that takes into consideration delayed harvesting;
- (c) transportation cost per tonne per kilometre of sugarcane.

(5) The Board shall offer Secretariat services to the Committee

(6) The sugar-cane prices set by the committee under sub paragraph (2) shall be reviewed after every thirty-six months provided that the Committee may, with the prior approval of the

Board, undertake an early review of the sugar-cane pricing.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to

**Second Schedule** - as amended agreed to.

**Third Schedule** - amendment proposed-

**THAT**, the Third Schedule to the Bill be amended by —

- (a) deleting paragraph 4 and 5;
- (b) inserting the following new paragraph immediately after paragraph 6—  
“(6A) The quorum of the Tribunal shall be three members”; and
- (c) deleting paragraph 8.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to

**Third Schedule** - as amended agreed to.

**New Schedule (FIRST SCHEDULE [S. 2]** - amendment proposed-

**THAT**, the Bill be amended by inserting the following new schedule immediately as the First Schedule—

**FIRST SCHEDULE [S. 2]**

**DELINEATION OF SUGAR CATCHMENT AREAS**

<b>SUGAR CATCHMENT AREAS</b>	<b>COUNTIES</b>
Rift Region	Kericho, Nandi and Uasingishu
Upper Western	Bungoma, and Trans Nzoia
Lower Western Region	Busia Kakamega, Siaya and Vihiga
Southern Region	Homa Bay, Kisumu, Migori and Narok

Coastal Region

Kwale, Lamu, and Tana River

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

**THAT, New Schedule (FIRST SCHEDULE [S. 2]** be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT, New Schedule (FIRST SCHEDULE [S. 2]** be part of the Bill;

Question put and agreed to;

**New Schedule (FIRST SCHEDULE [S. 2]** – agreed to  
**First, Second and Third Schedule** – amendment proposed-

**THAT,** the Bill be amended by renaming the First, Second and Third Schedule as Second, Third and Fourth Schedule respectively.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Motion made and Question proposed –

Question of the amendment proposed;

Debate arising;

Question put and agreed to

First, Second and Third Schedule – – As amended agreed to

Clause 2 – amendment proposed-

**THAT,** the Bill be amended by deleting clause 2 and substituting therefor the following new clause—

Interpretation. **2.** In this Act unless the context otherwise requires—

“agreements” means the agreements specifying the standard provisions governing the rights and obligations of growers, millers and out-grower institutions in the sugar industry;

“Board” means the Kenya Sugar Board established under section 3;

“by-product” means any substance, other than sugar, produced incidentally during the process of manufacturing sugar;

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

“County Executive Committee Member” means the County Executive Member for the time being responsible for matters relating to agriculture in the respective County;

“farm gate” means prices received by farmers for their sugarcane at the location of farm;

“Fund” means the Sugar Development Fund established under section 19;

“guidelines” means the guidelines for agreements between parties in the sugar industry set out in the Second Schedule;

“grower” means a person who produces sugar-cane or any crop in Kenya for the manufacture of sugar;

“industry” means the sugar industry in Kenya and includes the growing of sugar-cane and any other sugar producing crop, the manufacturing, refining, warehousing, marketing, transportation of sugar and disposal of sugar and its by-products;

“Institute” means the Kenya Sugar Research Institute established under section 16A;

“licence” means a licence issued by the Board to a miller;

“member” means a member of the Board appointed under section 5;

“mill gate” means a site where sugarcane varieties are grown under strictly controlled agronomic conditions for eventual establishment of the sugarcane crop;

“miller” means a person licensed to operate a sugar mill or a jiggery mill in Kenya for the production of sugar including refined sugar and other by-products;

“outgrower” means a person who has a sugarcane farm in a catchment area and who has in force a cane supply contract in respect of the sugar-cane grown on such farm and registered by the Board;

“refined sugar” means sugar, which complies with the specifications set by the body for the time responsible for setting

standards;

“sugar” means crystalline or liquid sucrose in any of its recognized commercial forms, intended for human consumption or other uses and includes raw sugar and industrial sugar;

“sugar-cane” means any plant or part of a plant of the genus saccharum or any of its hybrid;

“sugar catchment area” means a specific geographical area where farmers are clustered within a suitable sugar catchment area for purposes of election to the Board under the First Schedule;

“sugarcane growers apex body” means a national sugarcane farmers and out grower organisation under a cane supply contract and in catchment areas under the Fourth Schedule gazetted as such by the Cabinet Secretary for the time being responsible for agriculture;

“stakeholder” means a person with significant interest in the sugar industry and includes government, millers, growers and out-grower institutions;

“Tribunal” means the Sugar Arbitration Tribunal established under section 24A;

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 2 – – As amended agreed to

Title - agreed to

Clause 1 - agreed to

7. Motion for agreement with the Report of the Committee of the Whole House be amended by inserting the words **“subject to Re-committal of Clause(s) 5B, 15A, 15B, 16C, 18 and 26”**

*(Member for Wundayi)*

Question proposed;

**That**, the Report of the Committee of the Whole House be amended by inserting the words **“subject to Re-committal of Clause(s) 5B, 15A, 15B, 16C, 18 and 26”**

Question put and agreed to

8. Motion for agreement with the Report of the Committee of the Whole House be amended by inserting the words “**subject to Re-committal of Clause(s) 9A**”

*(Nominated Member (Hon David Sangok))*

Question proposed;

**That**, the Report of the Committee of the Whole House be amended by inserting the words “**subject to Re-committal of Clause(s) 9A**”

Question put and Negatived

Raising in his Place the Nominated member (Hon David Sankok) claimed to move;

**That**, the House has no quorum to transact Business, pursuant to Standing Orders. While acceding to the Request, the speaker ordered for the quorum bell to be rung. And there being no Quorum after expiry of ten minutes;

And the time being half past Noon, the Second Chairperson adjourned the House without Question put pursuant to the Standing Orders.

9. **HOUSE ROSE** - at half past Noon

**M E M O R A N D U M**

The Speaker will take the Chair on  
Wednesday, October 13, 2021 at 2.30 p.m.

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