



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (SIXTH SESSION)

THE SENATE

ORDER PAPER

WEDNESDAY, MAY 18, 2022 AT 2.30 P.M.

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. **MOTION - CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COFFEE BILL (SENATE BILLS NO. 22 OF 2020)**
(The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

THAT pursuant to Standing Order 159, the amendments of the National Assembly to the Coffee Bill (Senate Bills No. 22 of 2020) be now considered.

9. ****THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 1 OF 2022)**
(The Chairperson, Standing Committee on Finance and Budget)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 11th May, 2022)

(Division)

...../Bills

10. *****THE LANDLORD AND TENANT BILL (NATIONAL ASSEMBLY BILLS NO. 3 OF 2021)**
(The Senate Majority Leader)
(Second Reading)
***(Resumption of debate interrupted on Wednesday, 23rd February, 2022-
Morning Sitting)***
(Division)

11. ***THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 29 OF 2020)**
(Sen. Aaron Cheruiyot, MP and Sen. (Dr) Isaac Mwaura, MP)
(Second Reading)
(Resumption of debate interrupted on Thursday, 10th March, 2022)
(Division)

12. ***THE ELECTION CAMPAIGN FINANCING (AMENDMENT) BILL (SENATE BILLS NO. 51 OF 2021)**
(Sen. Ledama Olekina, MP)
(Second Reading)
(Resumption of debate interrupted on Wednesday, 23rd March, 2022)
(Division)

13. ***THE EMPLOYMENT (AMENDMENT) BILL (SENATE BILLS NO. 54 OF 2021)**
(Sen. Samson Cherarkey, MP)
(Second Reading)
(Resumption of debate interrupted on Wednesday, 30th March, 2022)
(Division)

14. ****THE COTTON INDUSTRY DEVELOPMENT BILL (SENATE BILLS NO. 55 OF 2021)**
(The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)
(Second Reading)
(Resumption of debate interrupted on Thursday, 31st March, 2022)
(Division)

15. *****THE SUGAR BILL (NATIONAL ASSEMBLY BILLS NO. 68 OF 2019)**
(The Senate Majority Leader)
(Second Reading)
(Resumption of debate interrupted on Thursday, 7th April, 2022)
(Division)

16. *****THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 32 OF 2021)**
(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Thursday, 28th April, 2022)

(Division)

17. *****THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 55 OF 2021)**
(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 4th May, 2022)

(Division)

18. *****THE SUSTAINABLE WASTE MANAGEMENT BILL (NATIONAL ASSEMBLY BILLS NO. 22 OF 2021)**
(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 10th May, 2022)

(Division)

19. ***THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS NO. 19 OF 2021)**
(Sen. Judith Pareno, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 11th May, 2022)

(Division)

20. ***THE COUNTY E-HEALTH BILL (SENATE BILLS NO. 39 OF 2021)**
(Sen. Judith Pareno, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 11th May, 2022)

(Division)

...../Motion

21. **MOTION - ADOPTION OF REPORTS OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON CONSIDERATION OF THE REPORTS BY THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTY EXECUTIVES FOR FINANCIAL YEAR 2018/2019**

(Chairperson, Sessional Committee on County Public Accounts and Investments)

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on consideration of the Reports by the Auditor General on the Financial Statements of the following County Executives for the Financial Year 2018/2019- Embu; Homa-Bay; Kericho; Kilifi; Kirinyaga; Kisii; Kwale; Machakos; Mombasa; Nandi; Baringo; Bomet; Garissa; Kajiado; and West Pokot as contained in Volume 1 of the Report and the following County Executives- Isiolo; Kakamega; Kisumu; Laikipia; Mandera; Marsabit; Nakuru; Narok; Nyandarua; Samburu; Taita Taveta; Trans-Nzoia; Uasin- Gishu; Vihiga; and Wajir, as contained in Volume 2 of the Report, Laid on the Table of the Senate on Thursday 2nd December, 2021.

(Resumption of debate interrupted on Tuesday, 8th March, 2022)

(Division)

22. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE SPECIAL AUDIT REPORT ON UTILIZATION OF COVID-19 FUNDS BY TWENTY EIGHT (28) COUNTY GOVERNMENTS**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on the special audit report on utilization of COVID-19 funds by twenty eight (28) county governments, laid on the Table of the Senate on Wednesday, 9th February, 2022.

(Resumption of debate interrupted on Wednesday, 23rd March, 2022)

(Division)

23. **COMMITTEE OF THE WHOLE**
****THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL (SENATE BILLS NO. 37 OF 2021)**

(The Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

(Resumption of debate interrupted on Wednesday, 22ndDecember, 2021 – Morning Sitting)

(Division)

24. **COMMITTEE OF THE WHOLE**

***THE LAW OF SUCCESSION (AMENDMENT) BILL, (SENATE BILLS NO. 15 OF 2021)**

(Sen. Abshiro Halake, MP)

(Resumption of debate interrupted on Wednesday, 2nd March, 2022 – Morning Sitting)

(Division)

25. **COMMITTEE OF THE WHOLE**

***THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 21 OF 2021)**

(Sen. Abshiro Halake, MP)

(Resumption of debate interrupted on Wednesday, 2nd March, 2022 – Morning Sitting)

(Division)

26. **COMMITTEE OF THE WHOLE**

***THE LIFESTYLE AUDIT BILL (SENATE BILLS NO. 36 OF 2021)**

(Sen. (CPA). Farhiya Haji, MP)

(Resumption of debate interrupted on Tuesday, 1st March, 2022)

(Division)

27. **COMMITTEE OF THE WHOLE**

***THE SPECIAL NEEDS EDUCATION BILL (SENATE BILLS NO. 44 OF 2021)**

(Sen. (Dr.) Getrude Musuruve and Sen. (Prof.) Margaret Kamar, MP)

(Resumption of debate interrupted on Wednesday, 2nd March, 2022 – Morning Sitting)

(Division)

28. **COMMITTEE OF THE WHOLE**

***THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 28 OF 2020)**

(Sen. (Arch.) Sylvia Kasanga, MP)

(Consideration of National Assembly Amendments)

(Resumption of debate interrupted on Thursday, 7th April, 2022)

(Division)

29. COMMITTEE OF THE WHOLE***THE IRRIGATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)

(The Senate Majority Leader)

(Resumption of debate interrupted on Wednesday, 4th May, 2022)

(Division)

30. COMMITTEE OF THE WHOLE**THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 1 OF 2022)

(The Chairperson, Standing Committee on Finance and Budget)

31. COMMITTEE OF THE WHOLE*THE ELECTIONS (AMENDMENT) (NO. 3) BILL (SENATE BILLS NO. 48 OF 2021)

(Sen. (Eng.) Ephraim Maina, MP)

32. COMMITTEE OF THE WHOLE*THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 53 OF 2021)

(Sen. Naomi Shiyonga, MP)

33. MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON EDUCATION ON THE INQUIRY INTO THE EARLY CHILDHOOD DEVELOPMENT EDUCATION (ECDE) LANDSCAPE IN THE COUNTRY

(The Chairperson, Standing Committee on Education)

THAT, the Senate adopts the Report of the Standing Committee on Education on the inquiry into the Early Childhood Development Education (ECDE) landscape in the country, laid on the Table of the Senate on Tuesday, 10th May, 2022.

34. MOTION - ADOPTION OF THE REPORT OF THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION ON ITS CONSIDERATION OF THE CONTROLLER OF BUDGET (COB) REGULATIONS, 2021

(The Chairperson, Sessional Committee on Delegated Legislation)

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on its consideration of the Controller of Budget (COB) Regulations, 2021, laid on the Table of the Senate on Tuesday, 10th May, 2022 and pursuant to Section 18 of the Statutory Instruments Act, 2013 **annuls** the Controller of Budget Regulations, 2021.

...../Motions

35. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE ALLEGED NEGLIGENCE BY THE KENYATTA NATIONAL HOSPITAL IN THE MEDICAL CASE OF THE LATE (PROF.) KEN WALIBORA, PRIOR TO HIS DEATH**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on the alleged negligence of the late Prof. Ken Walibora prior to his death at the Kenyatta National Hospital, laid on the Table of the Senate on Tuesday, 30th March, 2021.

36. **MOTION - ADOPTION OF THE FIRST PROGRESS REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE COVID-19 PANDEMIC SITUATION IN KENYA**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the First Progress Report of the Standing Committee on Health on the Covid-19 pandemic situation in Kenya, laid on the Table of the Senate on Tuesday, 30th March, 2021.

37. **MOTION - ADOPTION OF THE SECOND PROGRESS REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE COVID-19 SITUATION IN KENYA AND PRELIMINARY FINDINGS ON THE SPECIAL AUDIT REPORT ON THE UTILIZATION OF COVID - 19 FUNDS BY COUNTY GOVERNMENTS.**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Second Progress Report of the Standing Committee on Health on the COVID-19 situation in Kenya and preliminary findings of the Committee, on the Special Audit Report on the Utilization of COVID-19 funds by County Governments, laid on the table of the Senate on Tuesday, 30th March, 2021.

38. **MOTION - ADOPTION OF THE THIRD PROGRESS REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE COVID-19 SITUATION IN KENYA AND PRELIMINARY FINDINGS ON THE NATIONWIDE COVID-19 VACCINE ROLL OUT**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Third Progress Report of the Standing Committee on Health on the COVID-19 situation in Kenya and preliminary findings on the nationwide COVID-19 vaccine roll out, laid on the Table of the Senate on Tuesday, 21st September, 2021.

39. **MOTION - ADOPTION OF THE FOURTH PROGRESS REPORT OF THE
STANDING COMMITTEE ON HEALTH ON THE COVID-19 PANDEMIC
SITUATION AND THE IMPLEMENTATION OF THE NATIONWIDE COVID-
19 VACCINE DEPLOYMENT**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Fourth Progress Report of the Standing Committee on Health on the Covid-19 pandemic situation and the implementation of the Nationwide Covid-19 vaccine deployment, laid on the Table of the Senate on Thursday, 2nd December, 2021.

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NOTICE

NOTICE is given that, pursuant to Standing Order 251A and 251B, the sitting will be a hybrid sitting consisting of Senators who are physically present in the Senate Chamber and Senators participating virtually from a remote location through **Zoom** online meeting platform, as per guidelines issued by the Speaker pursuant to Standing Order 251A (4).

KEY

****- Denotes a Majority /Minority Party Bill

***- Denotes a National Assembly Bill

** - Denotes a Committee Bill

*- Denotes any other Bill

...../Notice of Amendments

A. *THE COFFEE BILL (SENATE BILLS NO. 22 OF 2020)

(Sen. (Arch.) Sylvia Kasanga, MP)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Wednesday, 13th April, 2022

CLAUSE 2

THAT, Clause 2 of the Bill amended—

(a) by inserting the following definitions in their proper alphabetical sequence—

“auction levy” means such fee per sixty-kilogram bag of coffee sold at the Exchange as shall be determined by the Cabinet Secretary responsible for matters relating to finance payable by coffee growers to the Exchange;

“Authority” means the Capital Markets Authority

No. 17 of established by the Capital Markets Authority Act; 1989.

“buni” means coffee dried in the fruit or cherry but does not include hulled buni, also referred to as clean coffee, heavy buni or light buni;

“coffee plantation” means any large area of land or group of contiguous areas of land under the same management on which coffee is grown and produced for sale;

“co-operative society” means a co-operative society registered under the Co-operative Societies Act, Cap. 490;

“Fund” means the Coffee Stabilization Fund established under section 58A;

“grower miller” means a grower who mills own parchment or buni or its members’ coffee and includes an individual farmer, co-operative society, union, association, estate or any other legal entity;

“large scale coffee grower” means a person cultivating coffee in a parcel of land above fifty acres;

“medium scale coffee grower” means a person cultivating coffee in a parcel of land of between ten and fifty acres;

“small scale coffee grower” means a grower cultivating coffee in a parcel of land of less than ten acres;

“secondary market” means a post-auction transaction of clean coffee between a licensed buyer or roaster and any other party for the purpose of local sale or export;

“secondary processing” means parchment de-husking, polishing, grading and packaging of clean coffee beans;

“smallholder” means a grower cultivating coffee in a small parcel or in small parcels of land and who does not possess his or her own pulping station;

(b) by deleting the definition “direct settlement system”;

(c) by amending the definition “estate” by deleting the word “five” appearing immediately after the words “not being less than” and substituting therefor the word “ten”

CLAUSE 3

THAT, Clause 3 of the Bill amended by deleting paragraph (b) and substituting therefor the following new paragraphs—

“(b) provide a regulatory framework for the registration, licensing, issuance of permits, issuance of certificates, production, processing, quality assurance, coffee trading, marketing and credit finance;

(ba) provide for enforcement of the regulatory framework and coffee standards in the subsector;

(bc) provide a framework for interlinkages amongst state agencies, regulators and players along the coffee value chain including the public private partnerships;

(bd) promote farmer-based associations or platforms for representation of farmers’ interests;

(be) provide a framework for the establishment of a Coffee Stabilization Fund;”

CLAUSE 6

THAT, Clause 6 of the Bill amended by inserting the following new paragraphs immediately after paragraph (d)—

“(da) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;

(db) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate in furtherance of the purpose for which the Board is established;”

NEW CLAUSE

THAT, the Bill amended by inserting the following new Clause immediately after Clause 6—

Authority to raise or borrow money.

6A. The Cabinet Secretary may, after consultation with the Cabinet Secretary responsible for finance, authorize the Board to raise or borrow such sums of money to finance its operations as it may think fit and the Board may secure the repayment of such sums.

CLAUSE 7

THAT, Clause 7 of the Bill amended –

(a) in sub clause (1) –

(i) by inserting the following new paragraphs immediately after paragraph (c) –

“(ca) the Principal Secretary responsible for co-operatives or a representative nominated by the Principal Secretary in writing;

(cb) the Principal Secretary responsible for the National Treasury or a representative nominated by the Principal Secretary in writing;”

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

“(e) one person nominated by the umbrella body representing large scale coffee growers;”

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

“(h) two persons of the opposite gender elected by small-scale coffee growers through their unions;”

(b) in sub clause (2) by deleting the words “subsection (1) (d), (e), (f) and (g)” and substituting therefor the words “subsection (1) (d), (e), (f), (g) and (h)”.

CLAUSE 8

THAT, the Bill amended by deleting clause 8 and substituting therefor the following new clause-

CLAUSE

9

Qualification for appointment.

8. A person shall be qualified for appointment as a member of the Board if that person-

THAT,

clause 9 of the Bill amended

(a) in the case of a person appointed under section 7 (1) (a) (e) and (f), holds a degree from a university recognized in Kenya;

(b) in the case of a person appointed under section 7 (1) (d), (g) and (h), holds a Kenya Certificate of Secondary Education or its equivalent;

(c) has three years experience in the coffee sector; and

(d) meets the requirements of Chapter Six of the Constitution.

(a) by ren um

bering the existing provision as subsection (1);

(b) by deleting the words “section 6 (1) (d), (e), (f) and (g)” and substituting therefor the words “section 7 (1) (d), (e), (f), (g) and (h)”;

(c) by inserting the following new subsection immediately after subsection (1)

“(2) The persons appointed under section 7 (1) (a), (d), (e), (f), (g) and (h) shall be appointed at different times but not more than six months shall lapse between one appointment and the other in the case of a vacancy in the Board”.

CLAUSE 11

THAT, Clause 11 of the Bill amended in subclause (1) by deleting paragraph (c).

NEW CLAUSE

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 17—

Corporation Secretary.	17A. (1) There shall be a Corporation Secretary who shall be the Secretary to the Board.
	(2) The terms and conditions of service of the Corporation Secretary shall be determined by the Board.

CLAUSE 25

THAT, Clause 25 of the Bill deleted.

CLAUSE 26

THAT, the Bill amended by deleting Clause 26 and substituting therefor the following new clause—

Licenses issued by the Board.	26. The following licences shall be issued by the Board—
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(a) a coffee buyer’s licence, authorizing the holder to—

- (i) buy or deal in clean coffee produced in Kenya or to import clean coffee from outside Kenya, and to process, in Kenya for local sale or export, coffee of any country of origin; and

- (ii) deal in roasting, blending and packaging coffee for the local market or for export.
- (b) a commercial coffee miller’s licence authorizing the holder to conduct the business of milling and marketing of coffee;
- (c) a grower miller’s licence, authorizing the grower to mill and market his or her own coffee;
- (d) a warehouseperson’s licence, authorizing the holder to conduct the business of warehousing coffee;
- (e) independent cupping laboratory licence, authorizing the holder to offer coffee quality analysis services;
- (f) a coffee roaster’s licence authorizing the holder to buy at the auction or secondary market, roast or grind and package clean coffee for local sale or export and for importing clean coffee for value addition either for local sale or for export.
- (g) coffee liqueur’s licence;
- (h) processed coffee import permit;
- (i) clean coffee movement permit for exports;

...../Amendments

NEW CLAUSES

THAT, the Bill amended by inserting the following new Clauses immediately after Clause 26—

Licenses issued by **26A.** (1) The following licences shall be issued by the respective county governments. issued by the respective county government—

(a) pulping station licence authorizing the holder to operate a pulping station and may undertake hulling;

(b) coffee nursery certificate;

(c) warehouse licence;

(d) parchment permit from the county of origin; and

(e) clean coffee movement permit from the county of origin.

(2) A person intending to carry out any of the activities listed in section 26A shall apply for and obtain a licence or permit from the respective county government in which the operation is undertaken.

(3) An applicant for a licence or permit under subsection (1) shall submit an application in the prescribed form together with the prescribed fees to the respective county executive committee member for consideration.

...../Amendments

(4) The county executive committee member shall consider the application and may issue to the applicant a licence in accordance with the respective county legislation.

Registration by the Board.

26B. (1) The Board shall register warehousepersons, coffee buyers, commercial coffee millers, grower millers, independent cupping laboratories, coffee roasters, coffee liqueurs, processed coffee importers, clean coffee importers, marketing agents, coffee bags suppliers, and certification companies.

(2) The Board shall issue a certificate of registration upon registration of the applicants.

(3) The Board shall not charge any fee for the registration of an applicant under subsection (1).

(4) Registration of the players under this section shall only be done once.

(5) The Board shall maintain a register of all registered players and share the register with the respective county government.

(6) All registered players shall complete and submit to the Board annual returns as shall be specified in regulations under this Act.

(7) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for a

term not exceeding three years or to a fine not exceeding five million shillings or to both.

Registration by the county government.

26C. (1) A person shall not carry out the business of a pulping station, coffee nursery operator, parchment movement from one county to another, warehouse or clean coffee movement from one county to another unless such person is registered by the respective county government in which the business is undertaken.

(2) A county government shall not charge any fees for the registration of an applicant under subsection (1).

(3) Each county government shall keep and maintain the register under subsection (1) for statistical purposes.

(4) A register under subsection (3) shall include—

(a) the name of the pulping station operator, coffee nursery operator, warehouse, parchment mover or clean coffee mover;

(b) the location, size and parcel number of the land on which the business is located; and

(d) such other information as the Board may prescribe.

(5) Each county government shall submit to the Board a copy of the register under subsection (3).

Registration by co-operative societies.

26D. (1) A smallholder coffee grower shall have the freedom to register with the co-operative society, association or company to which he or she delivers coffee.

(2) The directors of a coffee co-operative shall serve for a maximum period of two three-year terms.

(3) In electing directors under this section, a co-operative society shall ensure that not more than two thirds of the members are of one gender and that nominees for the Board meet the requirements of Chapter Six of the Constitution.

No. 12 of 1997.

(4) Notwithstanding the provisions of any other law, every coffee factory may, by resolution of its members in the Annual General Meeting, apply for registration as a co-operative society under the Co-operatives Societies Act.

(5) Every producer co-operative society, association or company, coffee plantation and nursery operator shall register with the county government by supplying such particulars as shall be prescribed in Regulations made under this Act.

(6) Where a person starts growing coffee at any time after the commencement of this Act, such person shall, within six months register with—

(a) a co-operative society, association or company in accordance with subsection (1) if such a person is a small scale grower; or

(b) his or her respective county government in accordance with provisions of this Act if such a person is a plantation grower or a co-operative society.

(7) The co-operative society, association, company and the county government shall each maintain a register for the purpose of this section and shall record the particulars supplied in accordance with this section.

(8) The county government shall share the data captured in this section with the Board on an annual basis.

(9) Where a co-operative society, association, company or the county government has reasonable cause to believe that a person whose particulars are recorded has ceased to be a grower, it may, after giving that person written notice by registered post of its intention to do so, remove the name of such person from the register.

(10) The register referred to in subsection (7) shall be proof that a person is a registered coffee grower and a co-operative society shall furnish the county government with particulars of all registered coffee growers in such manner as the county government may prescribe.

Prohibition of certain acts without a licence.

26E. (1) No person shall buy, sell, mill, warehouse, export or otherwise deal in or transact any business in coffee unless he or she is a holder of a current licence issued by the licensing authority for that purpose.

(2) This section shall not apply to—

(a) any person who purchases coffee for consumption or for planting on his or her land;

(b) any grower who mills coffee produced by such grower.

(3) Any person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of any licence granted commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(4) Where a person is convicted of an offence under this section, the court may order that any licence issued to such person be suspended for the subsequent coffee year or for such period as the Cabinet Secretary may, by Regulations, prescribe.

CLAUSE 34

THAT, Clause 34 of the Bill amended in subclause (2) by deleting the word “sub-regulation” and substituting therefor the word “subsection”.

CLAUSE 35

THAT, the Bill amended by deleting Clause 35 and substituting therefor the following new Clause—

Revocation or **35.** Alicensing authority may alteration of a licence revoke, alter or suspend a licence or or permit. permit issued under this Act if in its opinion—

- (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence or permit holder or any employee of the licence or permit holder; or
- (b) a condition of the licence or permit has been contravened or not complied with.

NEW CLAUSE

THAT, the Bill amended by inserting the following new Clause immediately after Clause 35—

Surrender of licence or permit. **35A.** (1) The holder of a licence or permit which is revoked shall immediately surrender it to the Board.

(2) A licence or permit holder may at any time surrender the licence or permit to the Board and the licence or permit shall cease to have effect immediately.

CLAUSE 37

THAT, the Bill amended by deleting Clause 37 and substituting therefor the following new Clause—

Appeals to the High Court. **37.** (1) An applicant for or holder of a licence or permit who is aggrieved by a decision of the licensing authority may appeal to the High Court on or in respect of—

- (a) the grant, refusal, renewal, variation or revocation; or
- (b) the conditions imposed on the grant, renewal or variation, of a licence or permit.

(2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.

CLAUSE 38

THAT, Clause 38 of the Bill deleted.

NEW CLAUSES

THAT, the Bill amended by inserting the following new Clauses immediately after Clause 42—

Branding
geographical
indications.

and

42A. The Board shall promote and register all coffees produced in Kenya in accordance with geographical or regional markers styled as ‘Authentic Mark of Origin.’

Coffee development.

42B. (1) The Cabinet Secretary may, on the advice of the Board, make policies and take steps to ensure that the coffee farmers receive appropriate technologies, credit, farm inputs and marketing support.

(2) The Board shall conduct training programs aimed at strengthening the capacities of county officers in terms of knowledge and skills in coffee production, processing technologies and marketing for different types of coffee.

(3) The Board shall, in consultation with the relevant standards bodies, coffee stakeholders, county governments and research institutions, develop the Kenya Coffee Production Standards and formulate a binding Code of Good Coffee Practice.

(4) Where a farmer has entered into an agreement with an organization representing the interest of such farmer, the Board and every dealer in coffee shall respect and enable the carrying out of the terms of such agreement, including the remission to such organization of any contributions that may, pursuant to such agreement, be deductible from the farmer.

Primary processing of coffee

42C. (1) The primary processing of coffee shall be carried out at a pulping station or by a grower’s co-operative society or other association of growers under a pulping station licence.

(2) The pulping station licence may include authority to undertake hulling of own parchment or buni.

(3) The huller shall be registered with the county government and such registration information shared with the Board.

Appointment of millers.

42D. (1) Coffee milling shall only be conducted at premises that are specified under the licence issued by the Board.

(2) Every coffee factory shall, by resolution of its members in Annual General Meeting, designate a registered miller for its parchment coffee.

...../Amendments

(3) The manager of every coffee factory shall, within two months of the end of the crop year, call a meeting of outgrowers to choose the registered miller referred to in subsection (2) from amongst at least three millers invited to make representations to the outgrowers.

(4) The county executive committee member responsible for coffee shall attend or designate a representative to attend the meeting referred to subsection (3).

(5) Each registered miller participating in the meeting to choose a miller shall make all disclosures necessary to enable farmers make an informed decision.

(6) A miller shall be a bailee of all parchment received for milling and shall be responsible for any loss or damage to the coffee in his or her custody.

(7) The milling losses allowable under this section shall be capped at nineteen percent of coffee milled.

(8) The Cabinet Secretary may, by Regulations and upon submission of empirical evidence, vary the milling losses allowable under subsection (7).

...../Amendments

(9) Every resolution made under this section shall, within fourteen days, be filed with the Board and copied to the relevant department of the county government and to the Commissioner of Co-operatives.

(10) Any person involved in the management of a coffee factory who contravenes the provisions of this section commits an offence.

(11) For the better carrying out of the provisions of this section, the Cabinet Secretary may by regulations, prescribe the manner for the appointment and remuneration of millers and for composition and attendance at the annual general meetings at which such millers are appointed.

CLAUSE 45

THAT, Clause 45 of the Bill amended by—

- (a) in subclause (2) by deleting the words “and the direct settlement system provider”;
- (b) by deleting subclause (8).

CLAUSE 46

THAT, Clause 46 of the Bill deleted and substituted therefor with the following new clause—

Coffee trading.

46. (1) Kenyan coffee shall be offered for sale through—

...../Amendments

(a) auction in the Exchange; or

(b) direct sales.

(2) All direct coffee sales shall be subject to price competition at the Exchange whereby the direct sale price shall serve as the reserve price.

(3) Where the coffee referred to in subsection (2) fetches a higher price at the Exchange than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the Exchange price.

(4) Despite subsection (3), if the prospective direct sales buyer refuses to buy the coffee at the Exchange price, the coffee shall be sold to the person who makes the best offer above the reserve price at the Exchange.

(5) A buyer, a roaster, or a grower miller licensed by the relevant licensing authority, or a broker appointed by the grower, may trade at an exchange in accordance with this Act and any other laws governing trade in an exchange.

(6) A holder of a miller's marketing licence commits an offence if he or she participates by himself or herself or by his or her agent in the buying of coffee.

...../Amendments

CLAUSE 48

THAT, the Bill amended by deleting Clause 48 of the Bill and substituting therefor the following new Clause—

Application as coffee exchange.

48. (1) A person shall not carry on the business of a coffee exchange unless the person has applied for approval and has been licensed as a Coffee Exchange by the Authority in accordance with the Capital Markets Act.

Cap. 485A.

(2) The Exchange shall be a body corporate, registered under the Companies Act.

No. 17 of 2015.

(3) The functions of the Exchange shall be to—

(a) manage the auction floor, the central sample room and the information registry;

(b) maintain records relating to coffee sales, coffee samples and sweepings;

(c) avail sales catalogues to interested parties in accordance with the Capital Markets Act; and

(d) carry out such other function as the Cabinet Secretary for the time being responsible for matters relating to finance may prescribe.

(4) The funds of the Exchange shall consist of—

- (a) auction levy;
- (b) registration fees payable by a coffee buyer, a roaster, a grower miller or broker;
- (c) government grants and donations made to the Exchange;
- (d) any interest from fixed deposits;
- (e) monies from a source approved by the Exchange; and
- (f) sample fee.

CLAUSE 54

THAT, Clause 54 of the Bill amended by—

- (a) numbering the existing provision as subclause (1);
- (b) inserting the following subclauses immediately after subclause (1)—

...../Amendments

“(2) In this section, “anti-competitive conduct” means any act, conduct, practice or behaviour by the Exchange organizer or any other licensee operating at the Exchange, individually or in concert with others that directly or indirectly impedes, frustrates, undermines or reduces competition at the Exchange.

(3) For the purpose of subsection (2), “anti-competitive conduct” includes but is not limited to margin squeeze, market sharing, transfer pricing, abuse of dominance, preferential contracts that give advantageous terms to affiliates and partners relative to competitors, imposition of unfair purchase or selling conditions or other, predatory practices, application of dissimilar conditions to equivalent transactions with other trading parties and other conduct that undermine competitive operations of the Exchange.

(4) The Cabinet Secretary for the time being responsible for matters relating to finance may make regulations for the implementation of this section.”

NEW CLAUSES

THAT, the Bill amended by inserting the following new clauses immediately after clause 54—

Classification of coffee.

54A. (1) Where a miller draws a sample of coffee for the purpose of grading the coffee, the miller shall within seven days of such grading notify the grower to whom the coffee belongs of the classification of the coffee.

(2) Any grower who is aggrieved by classification of his or her coffee under subsection (1) may, within fourteen days of the notification, appeal against such classification to the Board.

Promotion of coffee.

54B. (1) The Cabinet Secretary shall in accordance with regulations made under this Act and in consultation with the Board, put in place programmes for the establishment of special economic zones in the coffee sub-sector.

(2) The Board may co-ordinate coffee stakeholders, including county governments, growers and buyers at the national and international events for the purpose of promoting Kenya coffee.

(3) A county government in the coffee growing areas may, separately or in unison with the Board, support coffee growers' participation in local and international coffee promotion and marketing events.

No lending by millers and marketing agents.

54C. (1) A coffee miller and a marketing agent shall not lend to farmers on interest.

(2) A miller or marketing agent who contravenesthe provision of subsection (1) commits an offence

(3) Any miller or marketing agent convicted of an offence under subsection (2) shall have his or her licence revoked or suspended for such duration as the Cabinet Secretary may, by regulations, determine.

Loans against growers' assets.

54D. (1) The interest rate on borrowing by factory management against growers' assets held in trust by the coffee factories and coffee co-operative societies shall be capped at five per cent per annum.

(2) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growersto that effect.

(3) Any factory or society that contravenesthe provisions of subsection (1) commits an offence and any loans borrowed in contraventionof this provision shall be statutorily converted into personal loans of the officials of the offending factory or society.

(4) Nothing in this section shall be interpreted as prohibiting coffee farmers from directly borrowing money from banks or any government established funds against their deliveries of cherry, parchment and clean coffee.

CLAUSE 58

THAT, Clause 58 of the Bill amended by—

- (a) inserting the following paragraph immediately after the introductory statement—
 “(a) such monies as may be appropriated by the National Assembly;”
- (b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

NEW CLAUSE

THAT, the Bill amended by inserting the following new clause immediately after Clause 58—

Coffee Stabilization Fund. **58A.** (1) There is established a Fund to be known as the Coffee Stabilization Fund which shall be managed by the Board.

(2) The Fund shall consist of—

- (a) monies appropriated by the National Assembly;
- (b) monies from any source approved by the Board;

...../Amendments

(c) grants and donations made to the Board.

(3) The Board shall apply the monies received into the Fund to—

(a) income and price stabilization; and

(b) any investments that further the objective of stabilizing the prices paid to farmers.

CLAUSE 63

THAT, the Bill amended by deleting Clause 63 and substituting therefor the following new Clause—

Financial Year of the **63.** The financial year of the Board shall be the period of twelve months ending on the 30th June of every year.

CLAUSE 67

THAT, Clause 67 of the Bill amended—

(a) in subclause (1)

by deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) one person nominated by the umbrella body of estate coffee growers;”

(b) by deleting subclause (3) and substituting therefor the following new subclause—

“(3) A person is qualified for appointment as chairperson of the Board of the Institute if that person holds a master’s degree in agriculture, crops science, or other relevant degree from a university recognized in Kenya.”

CLAUSE 70

THAT, Clause 70 of the Bill amended in subclause (2) by inserting the following new paragraph immediately after paragraph (e)—

“(ea) issue certified coffee seeds or seedlings for multiplication in coffee nurseries to coffee growers or for export;”

CLAUSE 74

THAT, Clause 74 of the Bill amended in subclause (3) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) holds a master’s degree in agriculture or crops science from a university recognized in Kenya;”

CLAUSE 80

THAT, Clause 80 of the Bill amended by—

(a) inserting the following paragraph immediately after the introductory statement—

“(a) such monies as may be appropriated by the National Assembly;”

(b) renumbering the existing paragraphs (a), (b), (c), (d), (e) as (b), (c), (d), (e), (f), respectively.

CLAUSE 84

THAT, Clause 84 of the Bill amended in subclause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) a statement showing in detail the assets and liabilities of the Institute;”

CLAUSE 85

THAT, Clause 85 of the Bill amended—

(a) in subclause (1) by deleting the words “balance sheet and such other statements of accounts” and substituting therefor the words “statements of account”;

- (b) in subclause (2) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;
- (c) in subclause (3) by deleting the words “balance sheet and statements” and substituting therefor the words “statements of account”;

NEW CLAUSE

THAT, the Bill amended by inserting the following new Clause immediately after Clause 87—

Conflict of laws. **87A.** If any conflict arises between the provisions of this Act and any other Act with respect to the regulation of coffee, the provisions of this Act shall prevail.

NEW CLAUSE

THAT, the Bill amended by inserting the following new Clause immediately after Clause 91—

Offences and penalties. **91A.** (1) A person commits an offence if the person—

- (a) without lawful excuse ignores or fails to obey any instruction issued by a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act;
- (b) willfully obstructs a member of the Board or an employee or agent of the Board in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to a member of the Board or an employee or agent of the Board in exercise of the powers or the performance of the functions of the Board under this Act.

(2) A person who contravenes subsection (1) is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years, or to both.

(3) A person who is convicted of an offence under this Act shall in addition to any other penalty have his or her licence or registration suspended or cancelled for such a period as the Board may decide.

CLAUSE 92

THAT, the Bill amended by deleting Clause 92 and substituting the following new Clause—

General
penalty.

92. (1) A person who commits an offence under this Act for which no penalty is provided shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or a fine not exceeding twice the value of the coffee or coffee products or, to imprisonment for a term not exceeding sixmonths, or to both.

(2) Where the person convicted under this section is also a licence or permit holder under this Act, the licensing authority may, in addition, cancel such person’s licence.

NEW CLAUSE

THAT, the Bill amended by inserting the following new Clause immediately after Clause 92—

Offences relating to body corporate. **92A.** If an offence under this Act is committed by a body corporate, any other association of individuals or aco-operative society, a director, partner or any other person involved in, or acting or purporting to act in the management of its affairs commits an offence unless that person proves that—

- (a) the act or omission constituting the offence took place without the person’s knowledge; or
- (b) the person took reasonable steps to prevent the commission of the offence.

CLAUSE 94

THAT, the Bill amended by deleting Clause 94 and substituting therefor the following new Part—

PART XIA- PROVISIONS ON DELEGATED LEGISLATION

Regulations. **94.** (1) The Cabinet Secretary may, in consultation with the Board and county governments, make Regulations—

- (a) prescribing anything that may be prescribed under this Act; and
- (b) generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations to provide for—

- (a) the regulation of the processing, importation and exportation of coffee and coffee products;
- (b) the forms to be used in the application for registration, licensing, permits, contracts and related activities;

- (c) the process of application for registration, licensing and related activities;
- (d) any fee or levy which may be charged for anything done under this Act;
- (e) the regulation and enforcement of contracts between growers, processors and other players in the coffee industry;
- (f) the process of nomination of members to the Board
- (g) the conditions for the issuance of certificates, licenses and permits under this Act;
- (h) the trade, storage, bulking, packing and roasting of coffee;
- (i) the regulation of nursery operations, pulping, milling, warehousing and transportation of coffee;
- (j) value addition of coffee exports and imports;
- (k) the grading and classification of coffee;
- (l) the imposition of costs charged by service providers along the value chain and payment of coffee sales proceeds to growers and their service providers; and
- (m) anything required to be prescribed under this Act;

(3) For the purposes of Article 94(6) of the Constitution—

...../Amendments

Cap. 2

No. 23 of
2013

- (a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;
- (b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

CLAUSE 96

THAT, the Bill amended by deleting Clause 96 and substituting therefor the following new Clause—

Transfer
of assets
and
liabilities.

96. All property, except such property as the Cabinet Secretary may specify in writing, which, immediately before the commencement of this Act, was vested in the Government for the use of the Coffee Directorate of the Agriculture and Food Authority and the Coffee Research Institute of the Kenya Agricultural and Livestock Research Organization, shall, on the date of commencement of this Act, vest in the Board and the Institute, respectively, subject to all interests, liabilities, charges, obligations and trusts affecting that property.

CLAUSE 102

THAT, the Bill amended by deleting Clause 102 and substituting therefor the following new Clause—

Consequential amendments. **102.** The Crops Act is amended —

...../Amendments

No. 16 of
2013.

(a) in section 14(1) by deleting paragraph (a); and

(b) in Part 1 of the First Schedule by deleting the
expression

“Coffee.....*Cof*
fea spp.”

NEW CLAUSE

THAT, the Bill amended by inserting the following new Clause immediately after
Clause 102—

Consequential **102A.** The Co-operative Societies Act is amended —
amendments.

No. 12 of
1997.

(a) in section 43—

(i) by numbering the existing provision as
subsection (1);

(ii) by inserting the following new
subsection—

“(2) Despite subsection (1), a coffee
cooperative society shall not lend to
farmers on interest.”

(b) In section 44—

(i) by numbering the existing provision
as subsection (1);

(ii) by inserting the following new
subsections—

“(2) The interest rate on borrowing by factory management against growers’ assets held in trust by coffee co-operative societies shall be capped at five per cent per annum.

(3) A factory or society shall not contract any loans or advances under subsection (1) except with the support of a resolution in an Annual General Meeting passed by a majority of the growers to that effect.”

SECOND SCHEDULE

THAT, the Bill amended by deleting the Second Schedule and substituting therefor the following new Schedule—

SECOND SCHEDULE (s. 11, s. 23, s. 26, s. 26A, s.27, s. 28, s. 32, s.67)

LICENCE, PERMIT OR CERTIFICATE

No.	Type of Licence/Permit or Certificate	Issuing Authority
1.	Coffee buyer’s licence	Board
2.	Independent cupping laboratory licence	Board
3.	Warehouseperson’s licence	Board
4.	Coffee liqueur’s licence	Board
5.	Processed coffee import permit	Board
6.	Clean coffee movement permit for exports	Board
7.	Commercial coffee miller’s licence	Board
8.	Coffee roaster’s licence	Board
9.	Grower miller’s licence	Board
10.	Marketing agent licence	Board
11.	Coffee nursery certificate	County government
12.	Warehouse licence	County government
13.	Pulping station licence	County government
14.	Parchment permit from the county of origin	County government
15.	Clean coffee movement permit from the county of origin	County government
16.	Coffee exchange licence	Capital Markets Authority
17.	Broker’s licence	Capital Markets Authority

...../Amendments

B. **THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2021 (SENATE BILLS NO. 37 OF 2021)

(Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

i.) **NOTICE** is given that the Chairperson, Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the Intergovernmental Relations (Amendment) Bill, 2021, at the Committee Stage –

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new paragraph immediately after the proposed paragraph (n) –

(na) conditions for the termination of the agreement.

CLAUSE 3

THAT clause 3 of the Bill be amended by inserting the following new section immediately after the proposed section 26F –

Role of Technical Committee in transfer or delegation of powers, functions and competencies .	26G. The Technical Committee shall, in undertaking duties under this Part – (a) witness the execution of a transfer or delegation of a power, function or competency; (b) provide administrative support to the parties to the transfer agreement during the transfer process; and (c) prepare and maintain an inventory of assets and liabilities of the transferred functions.
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ii.) **NOTICE** is given that the Senator for Nyamira County (Sen. Erick Okong’o Mogeni,MP) intends to move the following amendments to the Intergovernmental Relations (Amendment) Bill, Senate Bills No. 37 of 2021, at the Committee Stage —

NEW CLAUSE 1A

THAT the Bill be amended by inserting the following new clause immediately after clause 1 –

Amendment of section 2 of No. 2 of 2012.	1A. Section 2 of the Intergovernmental Relations Act, hereinafter referred to as the “principal Act”, is amended by inserting the following new definition immediately after the definition of the word “Council” —
--	--

...../Amendments

“Council Secretariat” means the Secretariat to the Council of County Governors established under section 23A.

NEW CLAUSE 1B

THAT the Bill be amended by inserting the following new clause immediately after new clause 1A –

Amendment of section 12 of No. 2 of 2012.

1B. The principal Act is amended by deleting section 12 and substituting therefor the following new section –

Functions of the Technical Committee.

- 12.** The Technical Committee shall—
- (a) be responsible for the day-to-day administration of the Summit and in particular—
 - (i) facilitate the activities of the Summit; and
 - (ii) implement the decisions of the Summit;
 - (b) take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity; and
 - (c) perform any other function as may be assigned to it by the Summit or any other law.

NEW CLAUSE 1C.

THAT the Bill be amended by inserting the following new clause immediately after new clause 1B –

Amendment of section 14 of No. 2 of 2012.

1C. Section 14 of the principal Act is amended in paragraph (b) by deleting the words “and to the Council” appearing immediately after the words “to the Summit”.

NEW CLAUSE 1D

THAT the Bill be amended by inserting the following new clause immediately after new clause 1C –

Amendment of section 15 of No. 2 of 2012.

1D. Section 15 of the principal Act is amended in subsection (5) by –

...../Amendments

- (a) deleting the words “the Council” appearing immediately after the words “of the Summit” in paragraph (a);
- (b) deleting the words “the Council” appearing immediately after the words “of the Summit” in paragraph (e); and
- (c) deleting the words “the Council” appearing immediately after the words “by the Summit” in paragraph (f).

NEW CLAUSE 1E

THAT the Bill be amended by inserting the following new clause immediately after new clause 1D –

Amendment of section 17 of No. 2 of 2012.

1E. Section 17 of the principal Act is amended by deleting the words “the Council” appearing immediately after the words “the Technical Committee”.

NEW CLAUSE 1F

THAT the Bill be amended by inserting the following new clause immediately after the new clause 1E –

Insertion of new section 23A in No. 2 of 2012.

1F. The principal Act is amended by inserting the following new section immediately after section 23

—
The Council Secretariat.

- 23A.** (1) There shall be a Secretariat of the Council of County Governors to be known as the Council Secretariat.
- (2) The Council Secretariat shall be headed by a chief executive officer and comprise such other staff as may be determined by the Council.
- (3) The chief executive officer shall be competitively recruited and appointed by the Council.
- (4) A person is qualified to be appointed as a chief executive officer if that person-
- (a) holds a degree from a university recognised in Kenya;
 - (b) has at least five years relevant professional experience;

- (c) has demonstrable competence of not less than five years in an administrative position; and
- (d) satisfies the requirements of leadership and integrity provided for under Chapter Six of the Constitution.

(5) The chief executive officer shall be –

- (a) the secretary to the Council;
- (b) the accounting officer of the Council Secretariat; and
- (c) responsible to the Council for the day-to-day administration of the affairs of the Council Secretariat and the implementation of the decisions arising from the Council.

(6) Without prejudice to the generality of the provisions of subsection (5), the chief executive officer shall be responsible for-

- (a) the implementation of the decisions of the Council;
- (b) the establishment and development of an efficient administration of the Council Secretariat;
- (c) the organisation, control and management of staff of the Council Secretariat;
- (d) maintaining accurate records of all affairs of the Council, including records on financial matters and resource use;
- (e) ensuring the preparation and approval of the budget for the required funding of the operational expenses of the Council;
- (f) providing technical support to the sectoral working groups or committees of the Council; and
- (g) performing such other functions as may be assigned by the Council, this Act or any other legislation.

7) The chief executive officer shall be appointed for a single term of six years and shall not be eligible for reappointment.

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting the introductory clause and substituting therefor the following new introductory clause —

2. Section 26 of the principal Act is amended —

C. *THE LAW OF SUCCESSION (AMENDMENT) BILL, SENATE BILLS NO. 15 OF 2021

(Sen. Abshiro Halake, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Law of Succession (Amendment) Bill, Senate Bills No. 15 of 2021, at the Committee Stage —

CLAUSE 2

THAT the Bill be amended by deleting clause 2 and substituting therefor the following new clause –

Amendment of section 3 of Cap 160.

2. Section 3 of the Law of Succession Act, hereinafter referred to as the “principal Act”, is amended —

(a) in subsection (1) by inserting the following new definitions in their proper alphabetical sequence —

“child” includes an adopted child and a child who is conceived during the lifetime of a deceased person and is subsequently born after the death of the deceased person;

“intermeddling” means —

(a) taking possession of, disposing off, charging, receiving, distributing, leasing or using property of a deceased without authority under this Act or any other applicable law;

(b) ejecting a surviving spouse or child from the matrimonial home; or

(c) any unlawful dealing with a deceased person’s estate;

“matrimonial home” means any property that is owned or leased by one or both spouses and occupied or utilized by the spouses as their family home, and includes any other attached property;

(b) by deleting subsection (2); and

(c) by deleting subsection (3).

(d)

CLAUSE 3

THAT the Bill be amended by deleting clause 3.

CLAUSE 4

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

Repeal of section 32 of Cap 160. **4.** The principal Act is amended by repealing section 32.

CLAUSE 5

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

Repeal of section 5. The principal Act is amended by repealing section 33.
33 of Cap 160.

CLAUSE 6

THAT clause 6 of the Bill be amended —

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

(b) by inserting the following new subsections immediately after subsection (1)—

(1A) The interest of the surviving spouse under subsection (1)(b) shall determine upon remarriage.

(1B) Notwithstanding subsection (1), —

(a) where the surviving child is not a child of the surviving spouse—

(i) the surviving spouse shall be entitled to the personal and household effects of the deceased absolutely and a life interest in one-half of the whole residue of the net intestate estate; and

(ii) the surviving child shall be entitled to one-half of the whole residue of the net intestate estate which shall be held in accordance with section 41, and if there be more than one child they shall share equally;

(b) where the surviving children include a child who is not a child of the surviving spouse —

(i) the surviving spouse shall be entitled to the personal and household effects of the deceased absolutely;

(ii) the net intestate estate shall, in the first instance, be divided equally amongst the surviving spouse and all the surviving children;

(iii) the surviving spouse shall have a life interest in his or her share and that of his or her children under subsection (1B)(b)(ii); and

(iv) the share of the surviving child who is not a child of the surviving spouse under subsection (1B)(b)(ii) shall be held in accordance with section 41, and if there be more than one child they shall share equally.

(b) by inserting the following new paragraph immediately after paragraph (b) —

(c) by deleting subsection (5) and substituting therefor the following new subsection -

(5) Subject to the provisions of sections 41 and 42 and to any appointment or award made under this section, the whole residue of the net intestate estate shall, on the death or re-marriage of the surviving spouse, devolve upon the surviving child, if there be only one, or be equally divided among the surviving children.

CLAUSE 8

THAT clause 8 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph —

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph—
 - (a) father and mother in equal share; or, if either is dead;

CLAUSE 9

THAT the Bill be amended by deleting clause 9.

INSERTION OF NEW CLAUSE 8A

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

Amendment of section 40 of Cap 160.

8A. Section 40 of the principal Act be amended by inserting the following new subsection immediately after subsection (2) —

- (3) Notwithstanding subsection (1), where any of the surviving children is not a child of any of the wives of the deceased, that child shall —
 - (a) be considered a house in determining the share of dependants in the net intestate estate under subsection (1); and
 - (b) the share of such child shall be held in accordance with section 41, and if there be more than one child they shall share equally.

D. *THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 21 OF 2021)

(Sen. Abshiro Halake, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 21 of 2021), at the Committee Stage —

CLAUSE 3

THAT clause 3 of the Bill be amended –

- (a) by deleting paragraph (e); and
- (b) in paragraph (g) by deleting the word “for” appearing at the beginning of the paragraph and substituting therefor the word “the”.

CLAUSE 4

THAT clause 4 be amended in paragraph (c) by deleting the words “the marginalised” appearing immediately after the words “and in particular” and substituting therefor the word “vulnerable”.

HEADING TO PART II

THAT the Bill be amended by deleting the heading to Part II and substituting therefor the following new heading –

PART II – OBLIGATIONS OF THE NATIONAL AND COUNTY GOVERNMENTS

CLAUSE 5

THAT clause 5 of the Bill be amended –

- (a) in subclause (1) –
 - (i) by deleting paragraph (e) and substituting therefor the following new paragraph –
 - (e) put in place measures that target vulnerable persons to ensure the realisation of their economic and social rights and that such persons have access to goods and services that are of acceptable standards;
 - (ii) by deleting paragraph (g) and substituting therefor the following new paragraph –
 - (g) create awareness and build capacity of citizens to enable them develop their understanding, skills and capacity for equitable and effective participation in the formulation, implementation and monitoring of policies, strategies or programmes aimed at realising their economic and social rights;

- (b) in subclause (2) by –
 - (i) deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) prioritise the allocation of resources to ensure the realisation of economic and social rights while taking into account the special needs of vulnerable persons within the respective counties;
 - (ii) deleting paragraph (g) and substituting therefor the following new paragraph –
 - (g) identify factors that impede the realisation of economic and social rights and their causes and institute corrective measures.

CLAUSE 6

THAT clause 6 of the Bill be amended –

- (a) in subclause (1) by deleting the word “oversee” appearing immediately after the words “The Commission shall” and substituting therefor the words “monitor and report on”; and
- (b) in subclause (2) by inserting the words “of governance” immediately after the words “national values and principles”.

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (1) –

- (a) by deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) identify factors that impede the economic development of, and access to, essential financial services by vulnerable persons and make recommendations to the Cabinet Secretary on policies and strategies necessary to address those factors;
- (b) by deleting paragraph (g) and substituting therefor the following new paragraph –
 - (g) make recommendations to State entities responsible for the delivery of social assistance programmes at the National and county level of government on measures necessary for the effective delivery of the programmes;
- (c) by deleting paragraph (h) and substituting therefor the following new paragraph –
 - (h) in collaboration with relevant stakeholders, create awareness on the realisation of economic and social rights.

CLAUSE 8

THAT clause 8 of the Bill be amended –

- (a) by deleting subclause (1) and substituting therefor the following new subclause –
 - (1) In preparing a county integrated development plan provided for under section 108 of the County Governments Act,

...../Amendments

each county government shall prepare a county strategic plan for the realisation of economic and social rights as a component of the county integrated development plan.

(b) in subclause (2) by deleting paragraph (c) and substituting therefor the following new paragraph –

(c) programmes and policies aimed at social protection and the promotion of economic and social rights of vulnerable persons within the county;

(c) in subclause (3) by –

(i) deleting paragraph (c) and substituting therefor the following new paragraph –

(c) adopt strategies and plans that enhance the availability, accessibility, acceptability and adaptability of goods and services aimed at facilitating the realisation of economic and social rights;

(ii) deleting paragraph (g); and

(iii) deleting paragraph (h) and substituting therefor the following new paragraph –

(h) formulate strategic plans that respond effectively to issues affecting the realisation of economic and social rights within the county and provide such safety nets as may be necessary.

CLAUSE 9

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

Objectives of a county strategic plan. **9.** The principal objective of a county strategic plan prepared under section 8 shall be to enhance the ability of a county government to secure access, availability, acceptability, adaptability and quality of goods and services necessary for the realisation of economic and social rights.

CLAUSE 12

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

Approval of county strategic plans by the county assembly. **12.** (1) The respective county governor shall, within fourteen days of the preparation of a county strategic plan, submit a copy of the plan to the county assembly for approval. (2) The county governor shall, upon the approval of the county strategic plan, publish the plan in the respective county gazette and publicise it within the county through such means as provided for under section 95 of the County Governments Act.

CLAUSE 15

THAT clause 15 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

(1) A person aggrieved by the decision to implement or refrain from implementing a recommendation under this Part may make an application to court in accordance with Article 22 of the Constitution.

CLAUSE 16

THAT clause 16 of the Bill be amended by deleting the expression “20(5)” appearing immediately after the words “right under Article” and substituting therefor the expression “22”.

CLAUSE 17

THAT the Bill be amended by deleting clause 17 and substituting therefor the following new clause –

County Fiscal Strategy Paper to contain measures on social economic rights.	17. The respective county treasury shall include in the County Fiscal Strategy Paper – (a) measures aimed at ensuring the realisation of economic and social rights and associated activities for that year; and (b) any progress made in the realisation of economic and social rights.
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HEADING TO PART V

THAT the Bill be amended by deleting the heading to Part V.

CLAUSE 18

THAT the Bill be amended by deleting clause 18.

CLAUSE 19

THAT clause 19 of the Bill be amended in subclause (1) by inserting the word “annually” immediately after the words “section 13(2), prepare”.

CLAUSE 21

THAT clause 21 of the Bill be amended by –

- (a) deleting the marginal note and substituting therefor the following new marginal note –
 Public awareness framework.
- (b) deleting paragraph (c) and substituting therefor the following new paragraph –

- (c) collaborate with relevant agencies and stakeholders in each county in enhancing the capacity of residents to effectively participate in county affairs aimed at the delivery of goods and services for the realisation of economic and social rights.

CLAUSE 22

THAT clause 22 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a) –

- (aa) in section 126(1) by inserting the words “including for the realisation of economic and social rights” immediately after the words “strategic priorities” in paragraph (a).

CLAUSE 24

THAT the Bill be amended by deleting clause 24.

CLAUSE 25

THAT the Bill be amended by deleting clause 25.

INSERTION OF NEW CLAUSE 21A

THAT the Bill be amended by inserting the following new clause immediately after clause 21 –

Regulations.

21A. (1) The Cabinet Secretary shall, in consultation with the county executive committee members responsible for finance and the Commission and within twelve months from the commencement of this Act, make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations –

- (a) to provide a framework for collaboration between the National and county governments, and monitoring by the Commission on the implementation of this Act;
- (b) to provide for the procedures for the conduct of public participation under this Act; and
- (c) on the conduct of awareness programmes and the publication and dissemination of information under this Act.

(3) For the purposes of Article 94(6) of the Constitution –

Cap. 2.
No. 23 of 2013.

- (a) the power of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

INSERTION OF NEW CLAUSE 21B

THAT the Bill be amended by inserting the following new clause immediately after the new clause 21A –

Amendment to
No. 17 of 2012.

21B. The County Governments Act is amended in section 107(1) by inserting the following new paragraph immediately after paragraph (d) –

- (e) county strategic plans for the realization of economic and social rights under Part IV of the Economic and Social Rights Act.

SCHEDULE

THAT the Schedule to the Bill be amended –

- (a) in the introductory clause by inserting the words “the National Government and” immediately after the words “the effort of”;
- (b) in paragraph (a) by deleting the words “different levels of government” appearing immediately after the words “to the different” and substituting therefor the words “respective departments, agencies and institutions”;
- (c) by deleting paragraph (h) and substituting therefor the following new paragraph –
 - (h) whether or not it has put in place sufficient social safety nets such as cash transfers to vulnerable persons;
- (d) in paragraph (i) by deleting the words “and those in crisis situations” appearing immediately after the words “of the vulnerable” and substituting therefor the words “persons”.

CLAUSE 2

THAT clause 2 of the Bill be amended –

- (a) in the definition of the word “access” by deleting the words “persons in need” appearing immediately after the words “every person including” and substituting therefor the words “vulnerable persons”;

- (b) in the definition of the word “Council of County Governors” by deleting the expression “18” appearing immediately after the words “established under section” and substituting therefor the expression “19”;
- (c) by inserting the following new definition immediately after the definition of the word “county executive committee member” –
 - “county integrated development plan” means the five-year plan developed by a county government in accordance with section 108 of the County Governments Act;
- (d) by deleting the definition of the word “Equalisation Fund”;
- (e) by deleting the definition of the word “subsidy programme”;
- (f) by deleting the definition of the word “person in need”;
- (g) by deleting the definition of the word “vulnerable persons” and substituting therefor the following new definition –
 - “vulnerable persons” include children, pregnant and nursing mothers, older members of society, internally displaced persons, persons with disability, the sick, persons with chronic illnesses, victims of conflict, persons living in marginalised areas, and members of marginalised communities or groups provided that such persons or groups are unable to meet their economic and social rights, and such other groups as may be identified by the Cabinet Secretary or the respective county governor from time to time.

THE TITLE

THAT Bill be amended by deleting the Long Title and substituting therefor the following new Long Title –

AN ACT of Parliament to establish a framework for the realisation of economic and social rights; for monitoring and reporting on the realisation of economic and social rights; and for connected purposes.

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the words “Preservation of Human Dignity and Enforcement of” appearing immediately after the words “be cited as the”.

E. *THE LIFESTYLE AUDIT BILL (SENATE BILLS NO. 36 OF 2021)

(Sen. (CPA). Farhiya Haji, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Lifestyle Audit Bill, Senate Bills No. 36 of 2021, at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended by inserting the following new subclause immediately after subclause (3)—

(3A) An accounting officer who fails to comply with the requirement under subsection (3) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both.

CLAUSE 5

THAT clause 5 of the Bill be amended in subclause (1) by deleting paragraphs (a) and (b) and substituting therefor the following new paragraph (a)—

(a) there are reasons to believe that a public officer is living beyond the officer’s lawfully obtained and reported income and is unable to account for the source of their additional income;

CLAUSE 6

THAT clause 6 of the Bill be amended by deleting the words “apply for a search warrant to be issued against” appearing immediately after the words “by such officer” in the introductory clause and substituting therefor the words “issue a notice to explain for”.

CLAUSE 7

THAT clause 7 of the Bill be amended —

(a) in subclause (1) by —

- (i) inserting the words “*ex parte*” immediately after the words “it may apply”; and
- (ii) deleting the word “High” appearing immediately after the words “officer from the” and substituting therefor the word “Magistrates”;

(b) by deleting subclause (2) and substituting therefor the following new subclause—

(2) When making an application under subsection (1), the Commission shall—

- (a) specify the grounds on which the application is made and if material relevant to the lifestyle audit is likely to be found on the premises specified in the application;
- (b) specify the information and material being sought in the intended search; and
- (c) substantiate to the Court that the material sought could not be reasonably obtained anywhere else other than in the premises specified in the application.

(c) by inserting the following new subclauses immediately after subclause (4)—

(5) The Commission shall deposit the material obtained in the execution of a search warrant with the respective Court within three days of the execution.

(6) A person aggrieved by the issuance of a search warrant under this section may apply to the High Court for a review of the decision—

(d) at any time before the execution of the search warrant; and

(e) within thirty days after the execution of the search warrant.

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

CLAUSE 11

THAT clause 11 of the Bill be amended—

(a) in subclause (1) by inserting the words “*ex parte*” immediately after the words “make an application”; and

(b) in subclause (3) deleting the word “three” appearing immediately after the words “shall not exceed” and substituting therefor the word “six”.

CLAUSE 14

THAT clause 14 of the Bill be amended—

(a) in subclause (1) by inserting the words “*ex parte*” immediately after the words “Commission may apply”; and

(b) in subclause (4) deleting the word “three” appearing immediately after the words “shall not exceed” and substituting therefor the word “six”.

CLAUSE 21

THAT the Bill be amended by deleting clause 21.

CLAUSE 23

THAT clause 23 of the Bill be amended in subclause (3) by deleting the words “Director of Public Prosecutions may, in consultation with the Commission” appearing immediately after the word “The” and substituting therefor the words “Commission may”.

CLAUSE 25

THAT the Bill be amended by deleting clause 25.

NEW CLAUSE

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

Application
of the Act.

2A. This Act shall apply —

(a) to public officers; and

(b) in the case of a person who has ceased being a public officer, the period of ten years immediately after the person has ceased to be a public officer.

CLAUSE 2

THAT clause 2 be amended in the definition of the word “Commission” by inserting the word “Commission” immediately after the words “Ethics and Anti-Corruption”.

F. *THE SPECIAL NEEDS EDUCATION BILL (SENATE BILLS NO. 44 OF 2021)

(Sen. (Dr.) Getrude Musuruve and Sen. (Prof.) Margaret Kamar, MP)

NOTICE is given that the Chairperson, Standing Committee on Education, intends to move the following amendments to the Special Needs Education Bill, (Senate Bills No. 44 of 2021), at the Committee Stage—

CLAUSE 3

THAT clause 3 be amended—

- (a) in paragraph (a) by deleting the words “in Kenya” appearing immediately after the words “all learners”; and
- (b) by inserting the following new paragraphs immediately after paragraph (e)—
 - (f) ensure the transition of all learners with special needs through all levels of education; and
 - (g) provide a framework for accountability in the delivery of quality special needs education and related services.

CLAUSE 4

THAT clause 4 be amended—

- (a) in paragraph (a) by deleting the words “and compulsory” appearing immediately after the words “right to free” and substituting therefor the words “compulsory and affirmative”; and
- (b) in paragraph (d) by inserting the words “and the county governments” immediately after the words “role of the community”.

CLAUSE 5

THAT clause 5 of the Bill be amended by —

- (a) deleting paragraph (c) and substituting therefor the following new paragraph —
 - (c) use Kenyan sign language, braille and other specialized medium of instruction commensurate with the learner’s educational needs in every level of education;
- (b) inserting the following new paragraphs immediately after paragraph (d) —
 - (e) admission to any institution of learning and access to an inclusive, quality and free basic education on an equal basis with others;

(f) equal access to play, recreation, leisure and sporting and other activities undertaken in the school system;

(g) equal treatment with other learners; and

(h) reasonable accommodation within the institution providing special education.

CLAUSE 6

THAT clause 6 of the Bill be amended in subclause (2) by—

(a) inserting the words “at every level of education” immediately after the words “learners with special needs” in paragraph (a);

(b) inserting the words “at each level of education” immediately after the words “census of learners” in paragraph (d);

(c) inserting the word “online” immediately after the words “adult continuing alternative” in paragraph (j); and

(d) inserting the following new paragraphs immediately after paragraph (k)—

(ka) ensure adequate funding of special needs education;

(kb) put in place strategies for the delivery of quality education for learners with special needs;

(kc) put in place mechanisms to facilitate the registration of learners with disabilities are registered with the National Council for Persons with Disability;

(kd) ensure that the learners’ transition from one level of education to the next including to institutions of higher learning;

(ke) collaborate with educational institutions to establish appropriate programs for the attachment, apprenticeship and internships of learners with special needs; and

(kf) ensure that boarding facilities in education institutions accommodate the needs of for learners with special needs.

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (2) by inserting the following new paragraphs immediately after paragraph (k)—

(l) liaise with the Council to maintain a database of learners with disability in respective counties;

(m) work in collaboration with special education resource centres in the identification of children with special needs for registration and access to essential services; and

(n) provide incentives for and facilitate the development and management of special needs education institutions.

CLAUSE 8

THAT clause 8 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (c)—

(d) such other information as the committee member may consider necessary for the management of special needs institutions in the respective county.

CLAUSE 9

THAT clause 9 of the Bill be amended in subclause (1) by deleting the expression “2013” appearing immediately after the words “the Basic Education Act” and substituting therefor the words “the Technical and Vocational Education and Training Act and the Universities Act”.

CLAUSE 11

THAT clause 11 of the Bill be amended —

- (a) by renumbering the existing provision as subclause (1); and
- (b) by inserting the following new subclause immediately after the new subclause (1) –
 - (2) The principal manager or head of an education institution may require a person attending the special educational institution or applying for admission to the institution to undergo an assessment by a licensed medical practitioner or an educational assessment centre to determine the nature and the severity of the disabilities for the purpose of appropriate educational placement.
 - (3) An assessment report prepared pursuant to subsection (2) shall be used, together with such other information as may be available, as the basis for placement of a learner to an educational programme or institution which may not be congruent to the learner’s special needs along with any other relevant information pertaining to the learner.

CLAUSE 12

THAT clause 12 be amended by deleting subclause (1) and substituting therefor the following new subclause—

(1) The following categories of learners shall be represented on the Board of management of an institute for learners with special education needs—

- (a) six persons elected from amongst parents of the learners at the education institution to represent parents of the learners in the school or local community;
- (b) two persons with experience in matters of special needs education and social work relating to special needs nominated by the respective County Governor on the recommendation of the County Education Board;
- (c) two representatives of the staff in the school elected by the teachers and non-teaching staff;
- (d) one public officer nominated by the county executive committee member within the county;
- (e) in the case of a sponsored education centre, one representative of the sponsor of the education centre; and
- (f) the head teacher or the most senior teaching staff of the education centre, who shall be an *ex officio* member.

CLAUSE 22

THAT the Bill be amended in subclause (1) by inserting the word “Needs” immediately after the words “the Special Education”.

CLAUSE 28

THAT the Bill be amended by deleting clause 28.

CLAUSE 29

THAT the Bill be amended by deleting clause 29.

NEW CLAUSE 5A

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

Responsibility of parents

5A. (1) Every parent or guardian of a learner with special needs shall –

- a) admit or cause to be admitted their child to a school as the case maybe, for the purposes of completion of the child’s basic education; and

b) ensure that the learner attends school regularly as a pupil for the purposes of physical, mental, intellectual or social development of the child.

(2) A parent or guardian who fails, without reasonable cause submitted to the institution and County Director of Education, to admit, cause to be admitted or ensure the attendance of the learner in school commits an offence and shall be liable, on conviction, to a warning in the first instance and a fine not exceeding five thousand shillings for any subsequent offence.

(3) Where a parent or a guardian is unable to meet the obligations specified under subsection (1) such parent and guardian shall submit, within the prescribed time, the reason for the absence of the learner at a school or institution of basic education.

CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) in the definition of the word “learner with special needs” by inserting the words, “and includes learners with disability and gifted or talented learners” immediately after the words “Basic Education Act, 2013”;
- (b) deleting the word “20” and substituting therefor the following new definition-

“Advisory Board” means the Special Needs Education Advisory Board established under section 22;
- (c) deleting the definition of the word “cabinet secretary” and substituting therefor the following new definition-

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to education;
- (d) deleting the definition of the word “continuing education”;
- (e) deleting the definition of the word “progreskelli Williams sive inclusion”;
- (f) deleting the definition of the word “resource centre”; and
- (g) inserting the following new definitions in their proper alphabetical sequence-

“county executive committee member” means the county executive committee member responsible for matters relating to education within each county; and

“education assessment and research centre” means a county special education resource centre established pursuant to section 18 of this Act; and

CLAUSE 1

THAT the Bill be amended by deleting clause 1 and substituting therefor the following new clause —

Short I. This Act may be cited as the Learners with Disabilities Act, title. 2021.

G. *THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 28 OF 2020)

(Sen. (Arch.) Sylvia Kasanga, MP)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Thursday, 24th March, 2022

CLAUSE 3

THAT, clause 3 of the Bill be amended in paragraph (b)–

(a) in the proposed definition of “mental health practitioner” by inserting the following new paragraph immediately after paragraph (a)–

“(aa) medical practitioner under the Medical Practitioners and Dentists Act;”

(b) by deleting the proposed definition of “mental health unit” and substituting therefor the following new definition–

“mental health unit” means a place or a section within a health facility designated to provide mental health services;”

(c) by deleting the proposed definition of “person with mental illness” and substituting therefor the following new definition–

“person with mental illness” means a person diagnosed by a qualified mental health practitioner to be suffering from mental illness, and includes–

- (a) a person diagnosed with alcohol or substance use disorder; and
- (b) a person with suicidal ideation or behavior;”

(d) by inserting the following new definitions in their proper alphabetic sequence–

“mental health facility” means a facility registered and licensed by the relevant medical regulatory body to provide mental health services;

“mental health services” means the promotion of mental wellbeing, prevention, management or alleviation of disease, illness, injury and other physical and social determinants affecting mental health in individuals;

“rehabilitation” means the multidisciplinary approach aimed at supporting persons with psychosocial, intellectual and cognitive disabilities, access to services geared towards their treatment and recovery process;”

CLAUSE 4

THAT, clause 4 of the Bill be amended in the proposed new section 2A by inserting the following new paragraphs immediately after paragraph (e)—

“(f) adopt a holistic approach to community-based mental health services; and

(g) promote the provision of mental health services in primary health facilities.”

CLAUSE 5

THAT, clause 5 of the Bill be amended in the proposed new section 2C—

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

“(iii) expanding and strengthening community and family-based care and support systems for vulnerable persons;”

(b) by inserting the words “including mechanisms for outpatient comprehensive cover for mental health care and continued care for mental illness” immediately after the word “realised” appearing in paragraph (c);

(c) by deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) develop community-based programmes for the continued care and rehabilitation of persons with mental illness;”

CLAUSE 7

THAT, clause 7 of the Bill be amended by deleting the proposed new subsection (2) and inserting the following new subsection—

“(2) The Board shall consist of—

(a) a chairperson appointed by the President who shall—

(i) hold a Masters’ degree in psychiatry or its equivalent from a university recognised in Kenya; and

(ii) have at least ten years' experience, five of which shall be in a managerial position;

(b) the Principal Secretary in the ministry for the time being responsible for matters relating to health or a representative appointed in writing;

(c) the Principal Secretary in the ministry for the time being responsible for matters relating to finance or a representative appointed in writing;

(d) four persons, not being public officers, appointed by the Cabinet Secretary by virtue of gender, disability and regional balance, with knowledge and experience in mental health care of whom—

- (i) one shall be a psychiatrist nominated by the Medical Practitioners and Dentists Board;
- (ii) one shall be a counsellor or psychologist nominated by the Counsellors and Psychologists Board;
- (iii) one shall be a nurse nominated by the Nursing Council of Kenya; and
- (iv) one shall be a clinical officer nominated by the Clinical Officers Council;
- (e) one person nominated by the Kenya National Commission on Human Rights with knowledge and experience in matters related to mental health;
- (f) two persons, not being Governors, and having knowledge and experience in matters related to mental health, nominated by the Council of County Governors;
- (g) one county director of health nominated from amongst the forty-seven county directors of health by the Council of County Governors; and
- (h) the Director of Mental Health, who shall be the secretary to the Board and an *ex officio* member of the Board.”

CLAUSE 35

THAT, clause 35 of the Bill be amended in paragraph (a) by—

- (a) deleting the words “by order of the Director or the respective county executive committee member” appearing in the proposed new subsection (1) and substituting therefor the words “with the approval of the person in charge”;
- (b) deleting the words “The Director or the county executive committee member, as the case may be, shall” appearing in the proposed new subsection (1A) and substituting therefor the words “The person in charge shall”.

H. *THE IRRIGATION (AMENDMENT) BILL, (NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)**

(The Senate Majority Leader)

NOTICE is given that the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 202, at the Committee Stage—

NEW CLAUSE 8A

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

Amendment of section 14 of No. 14 of 2019.

8A. Section 14 of the principal Act is amended—

(a) by inserting the following new subsection immediately after subsection (2) —

(2A) Each county executive committee member shall, in ensuring that the county government fulfils its obligations under subsection (1) –

- (a) formulate a county irrigation strategy in collaboration with the relevant stake holders, in line with national policies and strategies;
- (b) delineate by notice in the gazette, strategic smallholder irrigation schemes;
- (c) promote the use of efficient irrigation systems in the respective county;
- (d) put in place measures for adaptation to, and mitigation against the effects of climate change and the enhanced sustainable environmental management in the county; and
- (e) report to the county assembly annually, and at such other time as may be necessary, on the state of irrigation development and management in the county.

(b) in subsection (3) by—

- (a) deleting the words “formulate and” appearing at the beginning of the paragraph (a);

- (b) inserting the following new paragraph immediately after paragraph (a) –
 - (aa) put in place the irrigation infrastructure in smallholder schemes;
- (c) deleting paragraph (f) and substituting therefor the following new paragraph—
 - (f) prepare and submit to the respective county executive committee member such periodic reports on the performance of its functions as the committee member shall determine; and
- (d) inserting the following new paragraph immediately after paragraph (f)—
 - (g) advise the respective county executive committee member on the development, maintenance, expansion and availability of irrigation support services in the respective county.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the term “commercial irrigation farmer” —

“county executive committee member” means the county executive committee member responsible for matters relating to irrigation.

I.THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 1 OF 2022)**

(The Chairperson, Standing Committee on Finance and Budget)

NOTICE is given that the Chairperson, Standing Committee on Finance and Budget, intends to move the following amendments to the County Allocation of Revenue Bill (Senate Bills No. 1 of 2022), at the Committee Stage—

SECOND SCHEDULE

THAT the Bill be amended by deleting the Second Schedule and substituting therefor the following new schedule-

SECOND SCHEDULE

(S.5)

County Government Budget Ceilings on Recurrent Expenditure in Financial Year 2022/2023 (Figures are in Kenya Shillings)					
No.	County Title	County Assembly Ceilings		County Executive Ceilings	
		FY 2021/22	FY 2022/23	FY 2021/22	FY 2022/23
1	Baringo	746,019,020	712,229,059	569,787,017	607,049,529
2	Bomet	648,066,449	621,143,848	552,531,315	588,023,141
3	Bungoma	890,983,497	873,284,854	621,554,119	664,128,690
4	Busia	801,409,679	765,019,229	587,042,718	626,075,916
5	Elgeyo/Marakwet	593,254,972	592,408,337	535,275,615	568,996,754
6	Embu	595,875,448	594,786,279	535,275,615	568,996,754
7	Garissa	829,101,968	815,801,264	569,787,017	607,049,529
8	Homa Bay	931,868,578	872,842,726	604,298,418	645,102,303
9	Isiolo	448,252,685	451,013,358	463,713,275	492,255,576
10	Kajiado	765,404,524	699,076,887	527,830,690	562,230,871
11	Kakamega	1,189,967,209	1,097,653,117	673,321,221	721,207,850
12	Kericho	728,813,928	708,995,621	569,787,017	607,049,529
13	Kiambu	1,206,180,907	1,114,698,533	673,321,221	721,207,850
14	Kilifi	797,062,541	779,167,171	587,042,718	626,075,916
15	Kirinyaga	634,065,925	582,922,761	522,925,302	556,100,619
16	Kisii	990,572,876	940,958,856	621,554,119	664,128,690

...../Amendments

17	Kisumu	745,033,801	718,886,210	587,042,718	626,075,916
18	Kitui	886,616,229	862,047,458	604,298,418	645,102,303
19	Kwale	618,445,792	617,790,583	535,275,615	568,996,754
20	Laikipia	470,108,195	467,754,457	493,319,288	524,178,098
21	Lamu	418,152,304	419,261,939	463,713,275	492,255,576
22	Machakos	907,790,391	865,126,181	604,298,418	645,102,303
23	Makueni	756,641,539	729,754,316	569,787,017	607,049,529
24	Mandera	811,048,184	864,090,152	578,963,987	616,986,522
25	Marsabit	715,654,362	678,317,733	535,275,615	568,996,754
26	Meru	988,437,598	938,478,295	621,554,119	664,128,690
27	Migori	863,486,098	857,185,385	604,298,418	645,102,303
28	Mombasa	679,254,392	674,783,021	569,787,017	607,049,529
29	Murang'a	761,307,014	753,378,653	587,042,718	626,075,916
30	Nairobi City	1,545,872,087	1,446,962,393	759,599,725	816,339,786
31	Nakuru	1,049,146,986	1,006,312,104	656,065,520	702,181,463
32	Nandi	669,452,972	666,771,490	569,787,017	607,049,529
33	Narok	769,346,518	734,655,062	569,787,017	607,049,529
34	Nyamira	612,444,433	610,515,511	535,275,615	568,996,754
35	Nyandarua	664,643,697	651,697,338	552,531,315	588,023,141
36	Nyeri	717,305,285	692,693,761	569,787,017	607,049,529
37	Samburu	518,009,214	517,964,444	480,968,975	533,708,983
38	Siaya	686,651,724	683,152,880	569,787,017	607,049,529
39	Taita/Taveta	631,282,421	620,545,692	535,275,615	568,996,754
40	Tana River	588,396,752	582,990,790	505,669,601	537,074,233
41	Tharaka -Nithi	455,222,064	434,745,770	493,319,288	524,178,098
42	Trans Nzoia	676,650,593	643,357,859	552,531,315	588,023,141
43	Turkana	821,950,164	818,680,328	569,787,017	607,049,529
44	Uasin Gishu	707,791,808	703,027,730	569,787,017	607,049,529

...../Amendments

45	Vihiga	659,609,764	637,128,800	552,531,315	588,023,141
46	Wajir	853,341,593	853,371,986	560,610,046	597,112,535
47	West Pokot	610,173,508	603,044,748	535,275,615	568,996,754
	Total	35,656,167,687	34,576,474,969	26,708,080,067	28,486,731,674

...../Amendments

J. *THE ELECTIONS (AMENDMENT) (NO. 3) BILL, SENATE BILLS NO. 48 OF 2021

(Sen. (Eng.) Ephraim Maina, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Elections (Amendment) (No. 3) Bill (Senate Bills No. 48 of 2021) at the Committee Stage —

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting the definition of the word “party primary”.

CLAUSE 3

THAT clause 3 of the Bill be amended in the proposed new section 32A(1) by deleting the words “a party primary” appearing immediately after the words “for purposes of” and substituting therefor the words “party nominations”.

CLAUSE 4

THAT clause 4 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph –

(b) in subsection (3) by –

- (i) inserting the words “and the Senate” immediately after the words “the National Assembly”; and
- (ii) deleting the proviso.

K. *THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL
(SENATE BILLS NO. 53 OF 2021)

(Sen. Naomi Shiyonga, MP)

i) NOTICE is given that the Chairperson of the Standing Committee on Health, intends to move the following amendments to the Kenya Medical Supplies Authority (Amendment) Bill, (Senate Bills No. 53 of 2021), at the Committee Stage –

CLAUSE 2

THAT clause 2 of the Bill be deleted and substituted with the following new clause—

Amendment **2.** The Kenya Medical Supplies Authority Act, 2013, of section 4 hereinafter referred to as the principal Act is amended in section 4 of No. 20 of by—
2013.

(a) deleting subsection (3) and substituting therefor the following new subsection—

No. 21 of 2017. (3) A national and county public health facility shall, in the procurement of drugs and medical supplies listed in the national government guidelines for essential medicines under section 67(4) of the Health Act, obtain all drugs and medical supplies from the Authority subject to the —

(a) drug being registered by the Board; and

(b) drugs and medical supplies—

(i) meeting the standards of quality;

(ii) being efficacious as authorised by the Board.

ii) **NOTICE** is given that the Senator for Narok County, (Sen. Ledama Olekina, MP) intends to move the following amendments to the Kenya Medical Supplies Authority (Amendment) Bill, (Senate Bills No. 53 of 2021), at the Committee Stage —

Amendment **2.** The Kenya Medical Supplies Authority Act, 2013, of section 4 hereinafter referred to as the principal Act is amended in of No. 20 of section 4 by inserting the following new subsection 2013. immediately after subsection (4) —

(5) In procuring drugs and medical supplies under subsection (1) (a), the Authority shall give preferential treatment to the local drug manufacturers and suppliers prequalified by the Pharmacy Management Committee established under section 4A.

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 2—

Insertion of section 4A in No. 20 of 2013.

3. The principal Act be amended by inserting the following new section immediately after section 4—

Pharmacy Management Committee

4A. (1) The Cabinet Secretary shall establish a Pharmacy Management Committee.

(2) The Pharmacy Management Committee shall comprise of —

(a) two members of the Board of the Authority one of whom shall be the Chief Executive Officer of the Authority;

(b) one member of the Board of Directors of the Pharmacy and Poisons Board;

(c) two members of the Board of the National Health Insurance Fund one of whom shall be the Chief Executive Officer of the Fund; and

(d) two persons, not being governors, nominated by the council of governors.

(3) The pharmacy management committee shall be responsible for the registration, prequalification and certification of local drug manufacturers and suppliers.

(4) The Authority shall provide the secretariat for the Committee.

Consequential amendment No. 9 of 1998.

4. The National Health Insurance Fund Act is amended—

(a) in section 5 (1) by inserting the following paragraph immediately after paragraph (h)—

(ha) administer the Pharmacy Benefit Management Platform;

(b) by inserting the following new section immediately after section 30 —

Pharmacy Benefit Management Platform.
No. 20 of 2013.

30A. (1) There is established the Pharmacy Benefit Management Platform to facilitate the payment for drugs and medical supplies supplied by the local manufacturers and suppliers prequalified by the Pharmacy Management Committee established under section 4A of the Kenya Medical Supplies Authority Act, 2013.

(2) The Pharmacy Benefit Management platform shall be administered by the Board in consultation with the Pharmacy Management Committee.

(3) The Board shall in consultation with the Pharmacy Management Committee, pay out of the Fund, on behalf of a contributor, the cost of drugs and medical supplies dispensed by empanelled healthcare providers and procured by the Authority from the local drug manufacturers and suppliers prequalified under section 4A of the Kenya Medical Supplies Authority Act, 2013.

(4) The Cabinet Secretary in consultation with the Board, the Kenya Medical Supplies Authority Board and the Pharmacy and Poisons Board shall make regulations for the better carrying out of this section.

APPENDIX

1. PETITION

Report of the Standing committee on National Cohesion, Equal Opportunity and Regional Integration on a petition to the Senate concerning the continuous exclusion of Persons with Disabilities (PWDs) in Migori County Budget.

(The Chairperson, National Cohesion, Equal Opportunity and Regional Integration)

2. PAPER

Report of the Standing Committee on Agriculture, Livestock and Fisheries on its consideration of the National Assembly amendments to the Coffee Bill (Senate Bills No. 22 of 2020);

(The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

3. STATEMENTS

a) Pursuant to Standing Order 47 (1)

Nominated Senator, (Sen. (Dr) Gertrude Musuruve, MP) to make a statement on the significance of the World Hypertension Day.

b) Pursuant to Standing Order 51 (1) (b)

(i) The Chairperson, Standing Committee on Roads and Transportation, to make a statement on the activities of the Committee.

NOTICE PAPER

Tentative Business for

Thursday, May 19, 2022

(Published pursuant to Standing Order 38 (1))

It is notified that the Senate Business Committee has approved the following **tentative** business to appear in the Order Paper for Thursday, May 19, 2022.

A. COMMITTEES OF THE WHOLE

- i.) **The Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 7 of 2021)
(Chairperson, Standing Committee on Tourism, Trade and Industrialization)
- ii.) *The County Resource Development Bill (Senate Bills No. 45 of 2021)
(Sen. Rose Nyamunga, MP)
- iii.) ***The Community Groups Registration Bill (National Assembly Bills No. 20 of 2021)
(The Senate Majority Leader)

B. MOTION - ADJOURNMENT OF THE SENATE

(The Senate Majority Leader)
