



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT – FIRST SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, FEBRUARY 14, 2023**

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

4. **QUORUM**

There being no Quorum present in the House to commence business, the Hon. Speaker ordered that the Quorum Bell be rung for Ten Minutes pursuant to Standing Order 34;

And Quorum having been attained before the expiration of Ten Minutes, business commenced.

5. **ADMINISTRATION OF OATH**

The Honourable Speaker administered the Oath of Office to the following Members –

- (i) Barrow, Dekow Mohamed (Garissa Township Constituency); and
- (ii) Njuguna, Chege (Kandara Constituency).

6. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communications –

(i) **The Business that lapsed at the end of the First Session and reconstitution of Sessional Committees.**

**“Honourable Members,** I take this opportunity to welcome you back to the August House for commencement of the Second Session of the 13<sup>th</sup> Parliament. It is my hope that after the well-deserved break, you are now fully rejuvenated and ready for the heavy legislative agenda that lies ahead of us in this first part of the Session. It is my hope that the induction workshops and the Post-Election Seminar recently undertaken for the Committees and the entire House have been useful in enriching

your parliamentary knowledge and building your capacity on the workings of Committees and the House thereby making you more effective legislators.

Although the just concluded First Session was of short duration, I am impressed that the House jelled, put in place structures and laid a firm foundation necessary for the seamless discharge of its constitutional mandate. Indeed, over that brief period, the House transacted various business, among them being the consideration of various state appointments to State offices, introduction and processing of Bills, Petitions and individual Members' Motions, among other key business.

Of note, **Honourable Members**, the House passed the Independent Electoral and Boundaries Commission (Amendment) Bill, 2022 on 1<sup>st</sup> December 2022. I wish to inform the House that, during the recess, the Senate considered and passed the said Bill in the form passed by this House. The law was subsequently assented to by His Excellency the President on 23<sup>rd</sup> January 2023 and is now in operation.

**Honourable Members**, it is my earnest expectation that the House will build on the gains made in the First Session, rise to the occasion and transact as much business as possible in the interest of the Kenyan people. I urge you to do this, especially in light of the priority business already before us in this part of the Session, being the Supplementary Estimates for the financial year 2022/2023 and the upcoming 2023 Budget Policy Statement and the Medium-Term Debt Management Strategy. These and other budget-related matters will remain at the top of our agenda between now and June 2023.

**Honourable Members**, as we commence the Second Session, I wish to bring to the attention of the House that, going by the Standing Orders and practices of the House, certain business that was not dispensed with at the end of the last Session has now lapsed. For greater clarity, the business that lapsed include all Motions, Requests for Statements and Questions.

To this end, any Committee or individual Member wishing to re-introduce lapsed business is advised to do so using the usual procedure. Members who may not be clear on the procedure are advised to visit the Table Office for assistance. I hasten to clarify that the lapsing of business does not apply to Public Petitions and Bills, the consideration of which shall resume from the point at which they had reached at the end of the First Session.

Honourable **Members**, I also wish to draw the attention of the House to the fact that the term of certain sessional committees has come to an end and therefore, they ought to be reconstituted. They include the Committee of Powers and Privileges and the Select Committee on Members' Services and Facilities. The Committee on Selection is therefore urged to expedite the process of nominating Members to serve in the said Committees, for approval by the House.

Finally, **Honourable Members**, as we embark on the legislative agenda for the Second Session, I wish you success, individually as Members and collectively as a House. I thank you!”

**(ii) Guidance on Consideration of the Special Motion on the Appointment of a Parliamentary Service Commissioner who is not a Member of Parliament**

“**Honourable Members**, this guide relates to the Paper that will be laid by a Member of the Parliamentary Service Commission, the Hon. Faith Gitau, MP, but in her case she is not here and I have directed the Leader of the Majority Party to lay the Paper on her behalf, and the subsequent Notice of Motion. The Paper and the Notice of Motion relate to the proposed appointment of **Hon. Johnston Muthama** as a Member of the Parliamentary Service Commission.

**Honourable Members**, Article 127(2)(d) of the Constitution provides for the appointment of two (2) persons, being one man and one woman, from among persons who have experience in public affairs, but are not members of Parliament, to the Parliamentary Service Commission. The position of male non-Member of the Parliamentary Service Commission fell vacant following the resignation of Commissioner Hon. Samuel Chepkonga for purposes of contesting an elective position in the General Elections that took place on 9<sup>th</sup> August, 2022. The Hon. Chepkong’a subsequently won and is now a Member of this House.

Consequently, and in accordance with the provisions of Article 127 of the Constitution and section 9 of the Parliamentary Service Act, 2019, Parliament is required to **appoint** a person (male) to fill the now vacant position.

**Honourable Members**, it is worth noting that unlike the usual procedure for consideration of nominees to serve in other statutory and constitutional bodies where Parliamentary Committees participate in the appointment processes by way of vetting and approval of appointment, in the case of the Parliamentary Service Commission, the appointment is by Parliament itself. Moreover, the Houses of Parliament have now established a practice that, save for the Chairperson, all other Members of the Commission are appointed by the Houses of Parliament. This implies that the recruitment process undertaken by the Commission serves the purpose of consideration for appointment and the person stands appointed once both Houses approve the nomination.

**Honourable Members**, the House will therefore consider the Special Motion on the basis of the Report that will be laid on the Table of the House by the Leader of the Majority Party behalf of the Commission and the attendant Notice of Motion. I call upon the House Business Committee to schedule the Motion at the earliest opportunity for expeditious consideration by the House, acknowledging that the Senate will also consider the nominee, so as to ensure that the Commission is fully constituted.

The House is guided appropriately. I thank you.”

**(iii) Security Arrangements within the Precincts of Parliament**

**“Honourable Members,** as you may be aware, there has been heightened security arrangements within the precincts of Parliament. The objective is to provide the necessary security and protection services to all Members, staff and visitors. The precincts of Parliament should at all times be a secure environment.

Of note, **Honourable Members,** the security measures in place may lead to discomfort and inconveniences. In this regard, I request all honourable Members to accommodate the discomfort and cooperate with the agencies charged with the responsibility of providing security.

Consequently, **Honourable Members,** I further request all Members to reduce the number of visitors at any time and in all places including at the restaurants. In addition, all Staff are directed to put on their parliamentary identification badges at all times.

**Honourable Members,** In view of the above and due to the heightened security situation, I call upon all Members to accord the necessary cooperation and support to officers from the Serjeant-at-Arms, Safety and Security Department of Parliament, and the Officer Commanding Parliament Police Station, who are responsible for providing our security. These officers are also mandated to conduct stringent screening of Member’s vehicles before allowing access into the precincts of Parliament.

The Serjeant-at-Arms, Safety and Security Department of Parliament, the Officer Commanding Parliament Police Station (OCS), and other security agencies are instructed to enforce the security arrangement and measures at all times. I thank you.”

**7. MESSAGES**

The Speaker reported the following Messages to the House –

**(i) Message from the president regarding certain proposals to amend the constitution and The Standing Orders to actualize the aspirations of Kenyans**

**“Honourable Members,** Pursuant to the provisions of Standing Order No. 42(2), I wish to convey a Message from His Excellency the President received during the recess period regarding various proposals to amend the Constitution and the Standing Orders to actualize the aspirations of Kenyans.

**Honourable Members,** Standing Order 42(2) states, and I quote –

*“(2) If a message is received from the President, at a time when the House is not in session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the message to the House on the day the House next sits.”*

In this regard **Honourable Members**, I wish to report to the House that on **9<sup>th</sup> December 2022**, I received a Message from H.E. the President regarding various proposals including proposals to amend the Constitution and the Standing Orders to actualize the aspirations of Kenyans through *gender inclusion and affirmative action; establishment of the Constituency Development; Senate Oversight and National Government Affirmative Action Funds; establishment of the Office of the Leader of the Official Opposition and strengthening of parliamentary oversight of the Executive.*

In the Message, Honourable Members, H.E. the President notes the legislative endeavours to facilitate greater political participation by women as well as the sustained increase in the number of elected women leaders in the current political formation. The situation however falls short of the minimum constitutional requirement and therefore necessitating deliberate action from all stakeholders. This would, for example, include the amendment of the Constitution to provide for a formula to guide the computation of the gender ratio in the National Assembly based on the number of those elected from the constituencies, and the counties, in the case of the Senate in line with Articles 97(1)(a) and 98(1)(a) of the Constitution.

Additionally, **Honourable Members**, the Message conveys proposals to institutionalize the Constituency Development Fund, the Senate Oversight Fund and the National Government Affirmative Action Fund, noting the great impact that such Funds have had to the general good of the public.

In order to ensure greater political inclusivity and to promote effective checks and balances and sound institutional practices, H.E. the President has proposed the establishment of the Office of the Leader of Official Opposition noting that this would inculcate bipartisan symmetry between the majority and minority sides extends to its full logical extent.

**Honourable Members**, The Message from the President also conveys a proposal for increased parliamentary oversight of the Executive through the facilitating avenues for accountability through parliamentary business. Specifically, it is proposed that the Rules of the House be aligned to allow Cabinet Secretaries to respond to questions raised by Members on the floor of the House. This would enhance transparency and close the information gap between citizens and the government, thereby enhancing public trust.

**Honourable Members**, In line with the resolution of the House of Wednesday, 12<sup>th</sup> October 2022 relating to *Consideration of Certain Business received during the Recess Periods*, I did transmit this Message to all Members vide my Notification No. 004 of 9<sup>th</sup> December 2022. I also referred the Message to respective Committees as follows –

- (i) The **Departmental Committee on Justice & Legal Affairs** to consider the Message from H.E. the President with respect to the implementation of the

Two-Thirds Gender Rule; and the establishment of the Office of the Leader of Official Opposition;

- (ii) The **Joint Parliamentary Ad Hoc Committee on Proposals to amend the Constitution to entrench certain Specialized Funds** to consider the Message from H.E. the President with respect to the establishment of the Constituency Development, Senate Oversight and National Government Affirmative Action Funds; and
- (iii) The **Procedure and House Rules Committee** to consider the Message from H.E. the President with respect to the request to consider amending the Standing Orders to strengthen parliamentary oversight of the Executive.

The Committees were required to consider the Message from H.E. the President, undertake necessary public participation as required under Article 118 of the Constitution and submit their respective reports to the House for consideration.

Noting the weighty nature of the proposals contained in the Message from the H.E. the President, I urge the respective Committees to hasten the consideration of the specified matters and report back to the House as soon as is practicable.

Additionally and pursuant to Standing Order 114(7A), I shall facilitate General Debate on the Message from H.E. the President on the matters relating to the amendment of the Constitution as part of the collation of views on the proposed changes. Indeed, Honourable Members, you will notice from the Notice Paper in the Order Paper, the General Debate of these three matters is scheduled to commence on Wednesday, 15<sup>th</sup> February 2023, subject to approval by the House Business Committee. Members who may have similar or related proposals are encouraged to make submissions at the appropriate time. I thank you!”

(ii) **Message from the President on Nominees for appointment to the National Climate Change Council.**

“Honourable Members, Standing Order 42(1) relating to **Messages from the President** provides that –

*“The Speaker shall read to the House any message from the President delivered to the Speaker for communication to the House.”*

In this regard, I wish to report to the House that I have received a Message from H.E. the President regarding nomination of persons for appointment as Members of the National Climate Change Council. In the Message, H.E. the President conveys that in exercise of the powers conferred by section 7 of the Climate Change Act 2016, he has nominated the following persons for appointment as Members of the National Climate Change Council from the entities listed in sub-section (2) paragraphs (f), (g), (h) and (i) of the Act, respectively:

- (i) Ms. Emily Mwendu Waita;

- (ii) Mr. John Kioli;
- (iii) Ms. Umra Omar; and,
- (iv) Dr. George Odera Outa.

**Honourable Members,** in accordance with section 7(4) of the Climate Change Act, 2016 as read together with section 3 of the Public Appointments (Parliamentary Approval) Act, 2011 names of persons nominated for appointment as members of the National Climate Change Council under subsection (2) paragraphs (f), (g), (h) and (i) are subject to approval by Parliament before appointment.

**Honourable Members,** I hasten to clarify that, whereas parliamentary approval of public appointments generally falls within the province of the National Assembly, the approval of appointment of members of the Climate Change Council is among the exceptions that the Constitution or the applicable laws prescribe a bi-cameral approval. Indeed, you may recall that in the 11<sup>th</sup> Parliament, this House, jointly with the Senate, vetted and approved appointment of the inaugural members of the Climate Change Council in 2016.

For clarity **Honourable Members,** the vetting process shall proceed as follows:

- (i) **THAT,** the vetting of the nominees proposed for appointment as members of the National Climate Change Council shall be conducted by the Departmental Committee on Environment, Forestry and Mining of the National Assembly, jointly sitting with the relevant Committee of the Senate;
- (ii) **THAT,** the quorum of the joint sittings of the Committees will be the respective quorums of each of the committees as stipulated in the Standing Orders of the respective Houses;
- (iii) **THAT,** as contemplated under Rule 9(6) of the Joint Rules, unless a decision is reached by consensus, any vote to be taken in the joint sittings of the Committees shall be by the separate Houses. This will ensure that the numerical difference of the individual Members representing the Houses in the joint sittings has no effect on the decisions of the joint sittings of the Committees;
- (iv) **THAT,** the joint Committees shall, having conducted the vetting hearings, submit a Joint Report to the respective Houses in the manner contemplated by Paragraph 7 of Joint Rule No. 9; and
- (v) **THAT,** the approval process shall be conducted in accordance with the provisions of the Public Appointments (Parliamentary Approval) Act, 2011.

**Honourable Members,** section 8 of the Public Appointments (Parliamentary Approval) Act, 2011, provides that, the Committee to which nomination for appointment is referred shall consider the matter and table a report in the House **within twenty eight (28) days** from the date on which the notification of nomination is conveyed to the House. The Act also requires that the public be given seven (7) days notification for submission of views regarding the suitability or otherwise of nominees proposed for appointment to an office requiring approval of Parliament.

In this regard, and in accordance with the provision of Article 259(5)(a) of the Constitution as read together with section 5 of the Public Appointments (Parliamentary Approval) Act, the counting of the seven (7) days' notification to the public shall start running on the day following the day on which the notice is published in dailies.

**Honourable Members,** it is worth noting that section 9 of the said law provides that:-

*“If after the expiry of the period for consideration specified in Section 8, Parliament has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.”*

I therefore urge and advise the concerned committees to expeditiously proceed to jointly notify the nominees and the public. Thereafter, the two committees should commence the joint approval hearings in earnest and table a Joint Report within the statutory timelines, to enable the Houses of Parliament to consider the Report within the set timelines.

**Honourable Members,** having guided the House, I now refer the Message, together with the resumes of each nominee and letters of recommendation from the relevant bodies, to the Departmental Committee on Environment, Forestry and Mining of the National Assembly sitting jointly with the Senate Standing Committee on Land, Environment and Natural Resources or such other appropriate committee of the Senate, for consideration. I also further instruct the Clerk to coordinate with the Clerk of the Senate so as to immediately facilitate the process of the statutory notifications to the general public ahead of the first sitting of the Joint Committee. I thank you.”

**(iii) Message from the President on Nomination of a Person for appointment as Solicitor-General of the Government of Kenya**

**“Honourable Members,** Pursuant to the provisions of Standing Order No. 42, I wish to report to the House that I have received a Message from His Excellency the President regarding the nomination of a person for appointment as the Solicitor-General of the Government of Kenya.



In the Message, His Excellency the President conveys that, in exercise of powers conferred by section 9(1) of the Office of the Attorney-General Act, 2012, as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, the President has nominated **Hon. Shadrack John Mose** for appointment as the Solicitor-General, having received the Report of the Public Service Commission on the recruitment of the Solicitor-General. The President now seeks the approval of the nominee by this House.

In accordance with the provisions of Standing Order 45, I hereby refer the Message from H.E. the President, together with the *Curriculum Vitae* and the report of the Public Service Commission, to the Departmental Committee on Justice & Legal Affairs for consideration.

**Honourable Members**, section 8 of the Public Appointments (Parliamentary Approval) Act, 2012 provides that, unless otherwise provided in law, the Committee to which such nomination is referred shall consider the matter and table a report in the House **within twenty-eight (28) days**. In this regard, the Committee is expected to immediately commence the approval process, notify the nominee and the general public of the time and place for holding the approval hearings, and thereafter, upon conclusion of the hearings, table its report on or before Thursday, March 9, 2023, to enable the House to consider the matter within the statutory timelines. I thank you!”

## **8. PAPERS LAID**

The following Papers were laid on the Table of the House-

- a) Report of the Parliamentary Service Commission on Recruitment of a Male Member of the Parliamentary Service Commission under article 127(2)(d) of the Constitution;
- b) A Request of Deployment of the Kenya Defence Forces in support of the National Police Service from the Ministry of Defence;
- c) Supplementary Estimates I for the FY2022/23 from the National Treasury and Economic Planning and the following accompanying documents: -
  - (i) FY 2022/23 Supplementary Estimates No.1 Programme Based Budget;
  - (ii) FY 2022/23 Supplementary Estimates No.1 (Recurrent Estimates)-Vol I & II;
  - (iii) FY 2022/23 Supplementary Estimates No.1 (Development Estimates) - Vol I,II & III ; and
  - (iv) Memorandum on FY 2022/23 Supplementary Estimates No.1
- d) The Additional Expenditures granted under Article 223 of the Constitution for the Financial Year 2022/2023 from the National Treasury and Economic Planning;
- e) Legal Notice No. 219 of 2022 relating to the Public Finance Management Act (National Peace Support Operations Fund) Regulations, 2022 and the

Explanatory Memorandum from the National Treasury and Economic Planning  
(to be referred to the Committee on Delegated Legislation);

- f) Legal Notice No. 1 of 2023 relating to the Merchant Shipping Act (Training and Certification (Amendment) Regulations, 2022 and the Explanatory Memorandum from the Ministry of Mining, Blue Economy and Maritime Affairs  
(to be referred to the Committee on Delegated Legislation);
- g) Memorandum on Ratification of Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles from the Ministry of Defence;
- h) Memorandum on Ratification, Acceptance, and Accession of the Hague Conventions on Private International Law from the Ministry of Defence;
- i) Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June 2022 and the certificates therein: -
  - (i) The National Assembly;
  - (ii) Parliamentary Catering Scheme Fund;
  - (iii) Parliamentary Mortgage Scheme Fund; and
  - (iv) Parliamentary Car Loan Scheme Fund.
- j) Report of the Auditor-General and Financial Statements for the National Government Ministries, Departments and Agencies for the year 2020/2021 from the Office of the Auditor-General.

*(The Hon. Kimani Ichung'wah - Leader of the Majority Party)*

## 9. NOTICE OF MOTION

The following Notice of Motion was given –

### Appointment of the Parliamentary Service Commissioner who is not a Member of Parliament

**THAT**, taking into consideration the Recommendations of the Parliamentary Service Commission in its Report on the *Recruitment of a Parliamentary Service Commissioner who is not a Member of Parliament*, laid on the Table of the House on Tuesday, February 14, 2023, and pursuant to the provisions of Article 127(2)(d) of the Constitution, this House **appoints** the Hon. Johnstone Muthama as a Member of the Parliamentary Service Commission.

*(The Hon. Kimani Ichung'wah - Leader of the Majority Party on behalf of the Parliamentary Service Commission)*

## 10. MOTION- APPOINTMENT OF MEMBERS TO THE HOUSE BUSINESS COMMITTEE

Motion made and Question proposed -

**THAT**, pursuant to the provisions of Standing Order 171(1) (f), this House approves the appointment of the following Members to the House Business Committee in addition to those specified under paragraphs (a), (b), (c), (d) and (e) –

- (i) The Hon. Omboko Milemba, M.P.
- (ii) The Hon. Robert Mbui, CBS, M.P.
- (iii) The Hon. Faith Wairimu Gitau, M.P.
- (iv) The Hon. Samuel K. Chepkonga, CBS, M.P.
- (v) The Hon. Adan Wehliye Keynan, CBS, M.P.
- (vi) The Hon. Tom Joseph Francis Kajwang', M.P.
- (vii) The Hon. Sarah Paulata Korere, M.P.
- (viii) The Hon. Joshua Mbithi Mwalyo, M.P.
- (ix) The Hon. Umul Ker Kassim Sheikh, M.P.

*(The Leader of the Majority Party)*

Debate arising;

Question put and agreed to.

And there being no business standing upon the Order Paper;

And the time being Twenty Six Minutes past Three O'clock, the Honourable Speaker adjourned the House without Question put pursuant to Standing Orders 30(6).

**11. HOUSE ROSE** - at Twenty Six Minutes past Three O'clock

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

The Speaker will take the Chair on  
Wednesday, February 15, 2023 at 9.30 a.m.

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