



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, FEBRUARY 14, 2023 AT 2.30 PM

1. The Senate assembled at thirty minutes past two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.

3. **QUORUM IN THE HOUSE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was Quorum, invited the Clerk to call the Orders of the day.

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair-

(i) Commencement of the Second Session of the Fourth Senate of the Republic of Kenya

“Honorable Senators,

It is my pleasure and privilege to welcome you to the Second Session of the Senate. It has indeed been a working recess with numerous activities running and a number of Special sittings convened pursuant to Standing Order 33. I however trust that you have had time to rest and re-connect with your family and constituents over the Christmas and New Year festivities.

I take this early opportunity to thank each one of you individually and collectively for the commitment, enthusiasm and the solid foundation that we established during the First Session, as part of the legacy of the Fourth Senate. I saw a resolute Senate that worked as one to execute its constitutional mandate. I commend you all and look forward to this commitment throughout the Second Session and the Sessions to come.

Honourable Senators,

As we commence the Second Session, and as has been the tradition at the commencement of each Session, we are called upon by our constituents to

play one of the fundamental roles of a legislator; budget making. As per the budget framework and calendar, we will shortly receive and consider the Budget Policy Statement, the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the Cash Disbursement Schedule.

As we receive and consider these fiscal documents, we must be cognizant of the challenges facing Kenyans, one of which is the high cost of living. Another challenge that we are facing and has dragged on from around August, 2022, is drought and famine, among others. It would be irresponsible of the Senate not to take action. As national leaders and servants of the people we must facilitate dialogue and institution of fiscal policy measures that address these challenges by channeling the resources that we have where they are most effective for efficient government services.

Additionally, we have a duty to oversight the budget process and ensure that there is prudent public finance management as the budget is critical in delivering the promises of devolution espoused in the Constitution of Kenya. Therefore, we must be vigilant to scrutinize the budget of the last Financial Year to determine the impact of resources allocated to service delivery and realization of various devolved functions and to scrutinize the current policy programmes outlined in the Budget Policy Statement that will be presented to this Senate. This will ensure that these are aligned to the devolved governance structure, economic development and recovery and principles of inclusion, equity and equality.

I urge all Honourable Senators to be available to consider the aforesaid budget documents in order to approve this particular business within the required timelines for our counties to receive the necessary funding for critical projects and programmes.

Honourable Senators,

In the Second Session, we look forward to reporting by various select committees of the Senate on their activities and the business referred to them for consideration. During the First Session, 12 Bills were published. Out of these, the County Governments Additional Allocations Bill (Senate Bills No. 4 of 2022) was considered by both Houses of Parliament and enacted into law. Three Bills have gone through the concurrence process contemplated under Article 110(3) of the Constitution and are now ready for First Reading. Four other Bills have since matured for Second Reading. The Senate Business Committee will schedule these Bills in the Order Paper in the coming days.

Another four Bills are undergoing the concurrence process and will be scheduled in the Order Paper by the Senate Business Committee upon completion of this process.

Other business transacted in the First Session includes two Petitions presented and referred to the relevant Standing Committees, as well as 40

Motions of which 36 were adopted. In addition, 115 Statements on diverse issues were canvassed of which 20 were issued under Standing Order 52(1); 89 pursuant to Standing Order 53(1); 4 under Standing Order 56(1)(a); and 2 Statements under Standing Order 58.

At an opportune time, the Senate Business Committee will publish a reporting schedule by select committees as required under Standing Order 56 (1)(b), for Committee Chairpersons to appraise the House on the above business and other activities relating to committees.

Honourable Senators,

I am particularly excited and looking forward to this Session as this is when we will experience application of the knowledge and skills that you have been equipped with during the elaborate induction programmes that have been carried out.

The inductions begun at the House level and were cascaded to each select Committee. I take this opportunity to thank the Secretariat for the rich and tremendous programmes that have been mounted for us. Our only response following the induction events is to get down to business!

A good place to start would be from the resolutions arrived at during the induction programme and which were assigned to the relevant dockets for action. Allow me to use this platform to urge all those to whom the resolutions were directed to, including the Office of the Speaker, the Senate Leadership, the Senate Business Committee, the Liaison Committee, and various select committees; to critically scrutinize them and institute measures for their implementation. It is only by so doing that we shall address the identified challenges and gaps, and ultimately, emerge stronger as a constitutional body.

Honourable Senators,

Aside from plenary and Committee business, and in keeping with its mandate of protecting devolution and the interest of counties and their governments, the Senate will participate in two major events in our annual calendar of event; namely, the Devolution Conference and the Legislative Summit. These two events afford us not only a platform for the Senate to be heard but also to interact with other key players in devolution, celebrate the gains and successes accomplished, reflect on the challenges encountered, and come up with concrete plans of action on the way forward.

These events **MUST** not be talking shops but an opportunity for the Senate to influence and change government policy as regards devolution. Our participation must translate to policy and legislative interventions. I look forward to this as preparations for these events begin.

Honourable Senators,

As I conclude, I challenge this August House to move our discussions and considerations to issues beyond borders. We have a responsibility, through the ambit of parliamentary diplomacy, to discuss matters of global concern that are emerging in other parts of the world. For instance, I welcome the relevant committees to engage in discourse on matters such as peace and conflict resolution in the African continent, economy recovery, growth and how as a country we can leverage on the existing frameworks on trade and movement of goods across the continent, equipping a labor force for the future of work, strengthening Africa food systems, African cities and realizing the new urban agenda, amongst others. It would be interesting to bring out perspectives on how issues facing other parts of the world entwine and impact us as a country.

Finally, I impress upon each of us to rededicate ourselves to the execution of our Constitutional mandate and to undertake the task ahead of us with utmost integrity in service to our great country, as we strive to mold the legacy of the Fourth Senate.

I thank you and wish us all a fruitful Session.”

(ii) On a visiting delegation from the Parliament of Uganda

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, a visiting delegation from the Parliament of Uganda. The delegation consists of the staff of the Hansard Department who are on a five-day attachment programme with the counterpart department in the Senate from 13th to 17th February, 2023.

Honourable Senators,

I request each Member of the delegation to stand when called out so that they may be acknowledged as per the Senate tradition.

1. Ms. Carol Amulen, Assistant Editor of Hansard
2. Mr. Stephen Liila, Assistant Editor of Hansard

On behalf of the Senate and on my own behalf, I welcome the delegation and wish them well for the remainder of the visit.

I thank you.”

5. **MESSAGES FROM FROM HIS EXCELLENCY THE PRESIDENT**

The Speaker conveyed the following Messages from His Excellency the President -

(i) On the nomination of Dr. Susan Jemtai Koech to the position of Deputy Governor of the Central Bank of Kenya

I wish to report to the Senate that pursuant to Standing Order 47, I received a Message from His Excellency Hon. William Ruto, PhD, CGH, President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces on the nomination of Dr. Susan Jemtai Koech to the position of Deputy Governor of the Central Bank of Kenya.

The Message was transmitted to the Senate vide a letter reference OP/CAB.26/4A VOL.I/(63) dated 25th January, 2023, by the Chief of Staff and Head of Public Service. Pursuant to Standing Order 47(2) of the Senate, I shall now report the Message to the Senate.

“It is most graciously notified that His Excellency Hon. William Samoei Ruto, PhD, CGH, President and Commander-in-Chief of the Kenya Defence Forces, has in exercise of the Constitutional prerogative vested in the Head of State and Government caused a nomination to the position of Deputy Governor of the Central Bank of Kenya.

In that regard, and pursuant to the Section 13B of the Central Bank of Kenya Act (Cap.491 of the Laws of Kenya) and the procedure set out in Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011); we submit to both Houses of Parliament the Presidential Nomination of Dr. Susan Jemtai Koech, for appointment as the Deputy Governor of the Central Bank of Kenya.

To aid the August House in its consideration and approval processes, we have the pleasure to forward herewith the Certificate of Presidential Nomination, together with the nominees’ curriculum vitae and testimonials, as well as the report of the Public Service Commission on the recruitment of the Deputy Governor of the Central Bank of Kenya.

Accordingly, and by way of this letter, you are most kindly requested to consider His Excellency’s nominee on a priority basis.”

Honourable Senators,

Section 13B(1) of the Central Bank of Kenya Act provides, and I quote “*there shall be two Deputy Governors who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament.*” In relation to this, Section 3 of the Public Appointments (Parliamentary Approval) Act states that “*an appointment under the Constitution or any other law for which the approval of Parliament is required shall not be made unless the appointment is approved or deemed to have been approved by Parliament in accordance with this Act.*”

Honourable Senators,

Standing Order No. 77 (1) of the Senate Standing Orders provides that *“upon receipt of a notification of nomination for appointment to a public office required to be approved by the Senate under the Constitution or any other legislation, the nomination shall stand committed to the relevant Standing Committee for consideration.”*

As was agreed and executed during previous approvals for nominations such as the position of the Inspector General of the National Police Service, the Message from His Excellency the President, together with the curriculum vitae of the nominee, stands committed to the relevant Committee, in this case, the Standing Committee on Finance and Budget for approval hearing. The Committee will hold the approval hearing jointly with the Departmental Committee on Finance, Planning and Trade of the National Assembly, in accordance with the provisions of the Central Bank of Kenya Act and the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the Houses of the Parliament.

Honourable Senators,

Section 8 of the same Act provides that –

“unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the relevant House for debate and decision within fourteen days from the date on which the notification of nomination was given in accordance with section 5.

At the conclusion of an approval hearing, the Committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the report, such recommendations as the Committee may consider necessary.”

In this regard, the period on the matter that is now before Parliament, starts running upon the Speakers of the Houses of Parliament committing the name of the nominee to the relevant Committees in the Senate and in the National Assembly.

Standing Order 230 (Joint Sittings of Corresponding Committees of the Senate and National Assembly) shall apply during the approval hearing. I urge the Committees to expeditiously consider this matter and to table a report thereon within the stipulated timelines.

I thank you.”

(ii) On the nomination of Ms. Emily Mwende Waita, Mr. John Kioli, Ms. Umar Omar and Dr. George Odera Outa, for appointment to the National Climate Change Council

I wish to report to the Senate that pursuant to Standing Order 47, I received a Message from His Excellency Hon. William Ruto, PhD, CGH, President of

the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces, on the nomination of Ms. Emily Mwende Waita, Mr. John Kioli, Ms. Umar Omar and Dr. George Odera Outa, for appointment to the National Climate Change Council.

The Message was transmitted to the Senate vide a letter reference SH/NA/1(22), dated 8th December, 2022, by the Chief of Staff and Head of Public Service. Pursuant to Standing Order 47(2) of the Senate, I shall now report the Message to the Senate.

“It is notified that His Excellency Hon. Dr. William Samoei Ruto PhD, CGH, President and Commander-in-Chief of the Kenya Defense Forces has, pursuant to Section 7(1) of the Climate Change Act (No. 11 of 2016) and upon the recommendation of the relevant bodies, exercised the constitutional prerogative vested in the Head of State and Government and caused nominations to the membership of the National Climate Change Council.

In that regard, and pursuant to Section 7 (4) of the Climate Change Act (No. 11 of 2016) and in accordance with the procedure set out in Section 3 and 5 of the Public Appointments (Parliamentary Approval) Act (No. 3 of 2011); I am hereby pleased to convey His Excellency the President’s nomination of –

- (i) Ms. Emily Mwende Waita;*
- (ii) Mr. John Kioli;*
- (iii) Ms. Umar Omar;*
- (iv) Dr. George Odera Outa.*

to be members of the National Climate Change Council pursuant to Section 7 (2) (f), (g), (h) and (i) of the Climate Change Act, 2016 respectively.

To aid the August House in its consideration and approval process, we have the pleasure of enclosing herewith, the letters of recommendation from the relevant bodies, Certificate of Presidential Nomination No. 9 of 2022 and the Curriculum Vitae of each nominee.

Accordingly, and by way of this letter, you are most kindly requested to expeditiously consider the nominees, so as to enable His Excellency the President constitute the Council.”

Honourable Senators,

Section 5 of the Climate Change Act, 2016 establishes the National Climate Change Council. Section 7 (2) of the Act provides that the Members to the Council shall be –

- a) the Cabinet Secretary responsible for environment and climate change affairs;
- b) the Cabinet Secretary responsible for the National Treasury;
- c) the Cabinet Secretary responsible for economic planning;
- d) the Cabinet Secretary responsible for energy;
- e) the chairperson of the Council of Governors;

- f) a representative of the private sector nominated by the body representing the largest number of institutions in the private sector;
- g) a representative of the Civil Society nominated by the most representative registered national umbrella association of civil societies working on climate change;
- h) a representative of the marginalized community within the meaning of Article 260 of the Constitution who has knowledge and experience in matters relating to indigenous knowledge; and
- i) a representative of the academia nominated by the Commission for University Education.

Section 7 (4) of the Climate Change Act states that *“the names of persons nominated for appointment under subsection (2) (f), (g), (h) and (i) shall be submitted to Parliament for approval.”*

Honourable Senators,

Standing Order No. 77 (1) of the Senate Standing Orders provides that upon receipt of a notification of nomination for appointment to a public office required to be approved by the Senate under the Constitution or any other legislation, the nomination shall stand committed to the relevant Standing Committee for consideration.

As was agreed and executed during previous approvals for such nominations such as the position of the Inspector General of the National Police Service and indeed previous nominees to the Council, the Message from His Excellency the President, together with the curriculum vitae of the nominees stands committed to the relevant Committee, in this case, the Standing Committee on Land, Environment and Natural Resources for approval hearing.

The Committee will hold the approval hearing jointly with the Departmental Committee on Environment, Forestry and Mining of the National Assembly, in accordance with the provisions of the Climate Change Act and the Public Appointments (Parliamentary Approval) Act and the Standing Orders of the Senate.

Honourable Senators,

As such therefore, Section 8 of the Public Appointments (Parliamentary Approval) Act provides that –

- (1) *“unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the relevant House for debate and decision within fourteen days from the date on which the notification of nomination was given in accordance with section 5.*
- (2) *At the conclusion of an approval hearing, the Committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the*

report, such recommendations as the Committee may consider necessary.”

In this regard, the period on the matter that is now before Parliament, starts running upon the Speakers of the Houses of Parliament committing the names of the nominees to the relevant Committees in the Senate and in the National Assembly.

Standing Order 230 (Joint Sittings of corresponding Committees of Senate and National Assembly) of the Senate Standing Orders shall apply during the approval hearing. I urge the Committees to expeditiously consider this matter and to table a report thereon within the stipulated timelines.

I thank you.

6. PAPERS

The following papers were laid on the table of the Senate: -

- i. The County Governments Additional Allocations Cash Disbursement Schedule for financial year 2022/2023.

(The Senate Majority Leader)

- ii. Report of the Parliamentary Service Commission on the nomination of Hon. Johnson Muthama, for appointment as a Non-Member of Parliament Commissioner to the Parliamentary Service Commission.

*(The Senate Majority Leader on behalf of the Vice-Chairperson,
Parliamentary Service Commission)*

7. COMMUNICATION FROM THE CHAIR ON THE APPROVAL FOR APPOINTMENT OF HON. JOHNSON MUTHAMA TO THE POSITION OF MALE NON-MEMBER COMMISSIONER OF THE PARLIAMENTARY SERVICE COMMISSION

“Honourable Senators,

As you may have noted, the Senate Majority Leader, has tabled the report of the Parliamentary Service Commission on the approval for appointment of Hon. Johnson Muthama to the position of male non-member Commissioner of the Parliamentary Service Commission.

The composition of the Parliamentary Service Commission is detailed in Article 127 of the Constitution of Kenya. Article 127(2)(d) of the Constitution provides that the composition of the Commission shall include -

“...one man and one woman appointed by Parliament from among persons who are experienced in public affairs, but are not members of Parliament.”

Honourable Senators,

Public appointments such as this must be approved by Parliament as provided in Article 127(2)(d) of the Constitution and Section 3 of the Public Appointments (Parliamentary Approval) Act. Further, Standing Order 77 of the Senate Standing Orders provides the procedure for approval hearing by a select committee.

From the foregoing, this matter stands committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration. Pursuant to Section 8 (1) of the said Act and Standing Order 77 (3), the Committee has 14 days from today to consider this matter and report to the Senate on the suitability of the candidate for appointment to the Parliamentary Service Commission.

I thank you”.

8. **SUSPENSION OF A SENATOR FOR DISORDERLY CONDUCT PURSUANT TO THE PROVISIONS OF STANDING ORDER 121 (2)**

Rising on a Point of Order, and referring to Rule 5 of Speaker’s Rules, nominated Senator (Sen. Tabitha Mutinda, MP) sought the direction of the Speaker on whether Nominated Senator (Sen. Gloria Orwoba) was properly dressed;

And the Speaker, having confirmed that Nominated Senator (Sen. Gloria Orwoba, MP) was not properly dressed, directed that the Senator withdraws from the Chamber to dress appropriately before returning to the Chamber;

Thereupon, the Senator withdrew from the Chamber.

9. **SUSPENSION OF A SENATOR FOR DISORDERLY CONDUCT PURSUANT TO THE PROVISIONS OF STANDING ORDER 121 (2)**

Pursuant to the provisions of Standing Order 121 (2), the Speaker ordered the Senator for Nairobi City County (Sen. Edwin Watenya Sifuna, MP) to withdraw from the precincts of Parliament for the remainder of the sitting day for gross disorderly conduct.

Thereupon, the Senator withdrew from the Chamber.

10. **SUSPENSION OF A SENATOR FOR DISORDERLY CONDUCT PURSUANT TO THE PROVISIONS OF STANDING ORDER 121 (2)**

Rising on a Point of Order, and referring to Rule 5 of Speaker’s Rules, the Senator for Migori County (Sen. Eddy Oketch, MP) sought the direction of the Speaker on whether Nominated Senator (Sen. Karen Nyamu) was properly dressed;

And the Speaker, having confirmed that Nominated Senator (Sen. Karen Nyamu, MP) was not properly dressed, directed that the Senator withdraws from the Chamber to dress appropriately before returning to the Chamber;

Thereupon, the Senator withdrew from the Chamber.

11. **NOTICE OF MOTION - APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE**

(The Senate Majority Leader)

THAT, pursuant to Standing Orders 190 and 199(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who pursuant to Standing Order 190(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip: -

- | | |
|--|----------|
| 1. Sen. Ali Ibrahim Roba EGH, MP | - Member |
| 2. Sen. Veronica Maina, MP | - Member |
| 3. Sen. Wakili Hillary Kiprotich Sigei, MP | - Member |
| 4. Sen. Maureen Tabitha Mutinda, MP | - Member |
| 5. Sen. Agnes Kavindu Muthama, MP | - Member |
| 6. Sen. Mwinyihaji Mohamed Faki, MP | - Member |
| 7. Sen. Edwin Watenya Sifuna, MP | - Member |

12. **MOTION – APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE**

Order read;

Motion made and Question proposed –

THAT, pursuant to Standing Orders 190 and 199(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who pursuant to Standing Order 190(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip: -

- | | |
|--|----------|
| 1. Sen. Ali Ibrahim Roba EGH, MP | - Member |
| 2. Sen. Veronica Maina, MP | - Member |
| 3. Sen. Wakili Hillary Kiprotich Sigei, MP | - Member |
| 4. Sen. Maureen Tabitha Mutinda, MP | - Member |
| 5. Sen. Agnes Kavindu Muthama, MP | - Member |
| 6. Sen. Mwinyihaji Mohamed Faki, MP | - Member |
| 7. Sen. Edwin Watenya Sifuna, MP | - Member |

(The Senate Majority Leader)

Debate arising;

Raising a Point of Order, pursuant to Standing Order 109 (1), nominated Senator (Sen. Veronica Maina, MP) claimed to move-

THAT, the Mover be now called upon to reply.

And the Speaker, acceding to the claim;

Question put and agreed to;

Thereupon, the Mover replied;

Before the Question was put and pursuant to Standing Order 84 (2), the Speaker ruled that the Motion did not affect counties;

Question put and agreed to.

RESOLVED ACCORDINGLY –

THAT, pursuant to Standing Orders 190 and 199(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who pursuant to Standing Order 190(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip: -

- | | |
|--|----------|
| 1. Sen. Ali Ibrahim Roba EGH, MP | - Member |
| 2. Sen. Veronica Maina, MP | - Member |
| 3. Sen. Wakili Hillary Kiprotich Sigei, MP | - Member |
| 4. Sen. Maureen Tabitha Mutinda, MP | - Member |
| 5. Sen. Agnes Kavindu Muthama, MP | - Member |
| 6. Sen. Mwinyihaji Mohamed Faki, MP | - Member |
| 7. Sen. Edwin Watanya Sifuna, MP | - Member |

And there being no other business, the Speaker adjourned the Senate at Forty-seven minutes past Five O'clock without Question put, pursuant to the Standing Orders.

13. **SENATE ROSE** – at Forty-seven Minutes past Five O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, February 15, 2023 at 2.30 p.m.*