



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, MAY 02, 2023 AT 2.30 P.M.

1. The Senate assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.
3. **QUORUM OF THE SENATE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, caused the Bell to be rung for ten minutes, pursuant to Standing Order 40;

And there being a Quorum after the expiry of the ten minutes;

The Speaker invited the Clerk to call the Orders of the day.

4. **COMMUNICATION FROM THE CHAIR ON ABSENCE OF MOVERS OF BUSINESS SCHEDULED IN THE ORDER PAPER**

The Speaker issued the following communication from the Chair.

“Honourable Senators,

Standing Order Nos. 43, 44 and 45, provide for the preparation, publication and circulation of the Senate Order Paper, the Weekly Programme of Senate Business, as well as the sequence in which the Business shall be disposed of. The Office of the Clerk prepares the Order Paper and publishes it the parliamentary website and also circulates to all Senators via other electronic means on the eve of a sitting. This is done so as to *inter-alia*, allow Senators with business on the Order Paper to prepare adequately.

Honourable Senators,

In the past few weeks, there have been several cases where Senators are not in the Chamber to prosecute their business including Statements, Bills, Motions and Amendments to Bills. This situation has made it necessary for the Chair to defer such business and thereby inconveniencing fellow Senators. This action has led to some business clogging the Order Paper, with a number of Statements, Motions and Bills being a permanent feature in the Order Paper.

This matter was deliberated upon at a meeting of the Senate Business Committee held today, 2nd May, 2023, where the Committee observed with concern that incidents of lack of Movers have become more frequent and persistent. This state of affairs has the potential of derailing the legislative mandate of the Senate. The Committee urged that I make a communication on the matter today.

Honourable Senators,

Standing Order No. 256 (1) states: -

“(1) A Senator intending to travel outside Kenya whether in an official or private capacity shall give to the Speaker a written notice to that effect indicating -

- (a) The destination intended to be visited;*
- (b) The dates of the intended travel and period of absence from Kenya; and*
- (c) The email, telephone contact, postal or physical address of the Senator during the period of absence from Kenya.*

It should also be noted that under Article 103 (1)(b) of the Constitution, the office of a Member of Parliament becomes vacant if *“during any session of Parliament, the member is absent from eight sittings of the relevant House without permission, in writing, from the Speaker, and is unable to offer a satisfactory explanation for the absence to the relevant committee.”*

Going forward, failure to adhere to these provisions will result in the application of Standing Order 64(3) which states that: -

“Where no Senator moves a Motion (and indeed any other business belonging to that Senator) at the time specified by or under these Standing Orders, such Motion shall not be published again in the Order Paper during the same session except with the leave of the Speaker.”

Honourable Senators,

I urge all Senators to observe the provisions of the aforementioned Standing Orders and ensure they are available in the House to prosecute their business as scheduled in the Order Paper.

Movers of Amendments to Bills who will not be in the Chamber at the required time shall also be subjected to the provisions of Standing Order 64(3) translating to their amendments being dropped and consideration of the Bill will proceed without amendments.

Be guided accordingly.”

5. **PAPERS LAID**

The following Papers were laid on the Table of the Senate: -

- i.) Report of the 146th Assembly of the Inter-Parliamentary Union (IPU) and Related Meetings held in Manama, Kingdom of Bahrain, from 11th to 15th March, 2023.

(Sen. Kathuri Murungi, MP)

- ii.) Report of the Auditor General on the financial statement of the County Executive of Vihiga for the year ended 30th June, 2022.
- iii.) Report of the Auditor General on the financial statement of the County Assembly of Vihiga for the year ended 30th June, 2022.
- iv.) Report of the Auditor General on the financial statement of the Vihiga County Assembly Members and Staff Mortgage and Car Loans Scheme Fund for the year ended 30th June, 2022.
- v.) Report of the Auditor General on the financial statement of the County Executive of Mandera for the year ended 30th June, 2022.
- vi.) Report of the Auditor General on the financial statement of the County Assembly of Mandera for the year ended 30th June, 2022.
- vii.) Report of the Auditor General on the financial statement of the County Government of Mandera - Receiver of Revenue for the year ended 30th June, 2022.
- viii.) Report of the Auditor General on the financial statement of the County Government of Mandera - County Revenue Fund for the year ended 30th June, 2022.
- ix.) Report of the Auditor General on the financial statement of the Elwak Municipality in the County Government of Mandera for the year ended 30th June, 2022.
- x.) Report of the Auditor General on the financial statement of Mandera Wäter and Sewerage Company Limited for the year ended 30th June, 2022.

- xi.) Report of the Auditor General on the financial statement of the Mandera County Education Bursary Fund for the year ended 30th June, 2022.
- xii.) Report of the Auditor General on the financial statement of the County Executive of Lamu for the year ended 30th June, 2022.
- xiii.) Report of the Auditor General on the financial statement of the County Assembly of Lamu for the year ended 30th June, 2022.
- xiv.) Report of the Auditor General on the financial statement of the County Executive of Lamu for the year ended 30th June, 2022.
- xv.) Report of the Auditor General on the financial statement of the County Government of Lamu – Receiver of Revenue – Revenue Statements for the year ended 30th June, 2022.
- xvi.) Report of the Auditor General on the financial statement of the County Revenue Fund of the County Government of Lamu for the year ended 30th June, 2022.
- xvii.) Report of the Auditor General on the financial statement of the Lamu County Gender and Social Development Fund for the year ended 30th June, 2022.
- xviii.) Report of the Auditor General on the financial statement of the Municipality of Lamu for the year ended 30th June, 2022.
- xix.) Report of the Auditor General on the financial statement of the Lamu County Emergency for the year ended 30th June, 2022.
- xx.) Report of the Auditor General on the financial statement of the Lamu County Fisheries Development Agency for the year ended 30th June, 2022.
- xxi.) Report of the Auditor General on the financial statement of the County Executive of Tana River for the year ended 30th June, 2022.
- xxii.) Report of the Auditor General on the financial statement of the County Assembly of Tana River for the year ended 30th June, 2022.
- xxiii.) Report of the Auditor General on the financial statement of the Tana River County Disaster Risk Management Fund for the year ended 30th June, 2022.
- xxiv.) Report of the Auditor General on the financial statement of the Tana River County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2022.

- xxv.) Report of the Auditor General on the financial statement of the Tana River County Emergency Fund for the year ended 30th June, 2022.
- xxvi.) Report of the Auditor General on the financial statement of the County Government of Tana River - County Revenue Fund for the year ended 30th June, 2022.
- xxvii.) Report of the Auditor General on the financial statement of the County Government of Garissa - County Revenue Fund for the year ended 30th June, 2022.
- xxviii.) Report of the Auditor General on the financial statement of the Garissa County Revolving Fund for the year ended 30th June, 2021.
- xxix.) Report of the Auditor General on the financial statement of the Garissa County Revolving Fund for the year ended 30th June, 2022.
- xxx.) Report of the Auditor General on the financial statement of the County Government of Garissa - Receiver of Revenue – Revenue Statements for the year ended 30th June, 2022.
- xxxi.) Report of the Auditor General on the financial statement of the County Executive of Siaya for the year ended 30th June, 2022.
- xxxii.) Report of the Auditor General on the financial statement of the County Assembly of Siaya for the year ended 30th June, 2022.
- xxxiii.) Report of the Auditor General on the financial statement of the Siaya County Education Bursary Fund for the year ended 30th June, 2022.
- xxxiv.) Report of the Auditor General on the financial statement of the Wajir County Climate Change Fund for the year ended 30th June, 2022.
- xxxv.) Report of the Auditor General on the financial statement of the County Revenue Fund of the County Government of Wajir for the year ended 30th June, 2022.
- xxxvi.) Report of the Auditor General on the financial statement of the Wajir County Disability Fund for the year ended 30th June, 2022.
- xxxvii.) Report of the Auditor General on the financial statement of the Kisumu County COVID-19 Emergency Response Fund for the year ended 30th June, 2022.
- xxxviii.) Report of the Auditor General on the financial statement of the Kisumu County Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2022.

- xxxix.) Report of the Auditor General on the financial statement of the Kericho County Emergency Fund for the year ended 30th June, 2022.
- xl.) Report of the Auditor General on the financial statement of the Kericho County Enterprise Fund for the year ended 30th June, 2022.

(The Deputy Senate Majority Whip)

6. **NOTICE OF MOTION – REPORT OF THE 146TH ASSEMBLY OF THE INTER – PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS HELD IN MANAMA, KINGDOM OF BAHRAIN FROM 11TH TO 15TH MARCH, 2023.**

(Sen. Kathuri Murungi, MP)

THAT, the Senate notes the Report of the 146th Assembly of the Inter-Parliamentary Union (IPU) and Related Meetings, held in Manama, Kingdom of Bahrain, from 11th to 15th March, 2023, laid on the Table of the Senate on Tuesday 2nd May, 2023.

7. **QUESTIONS AND STATEMENTS**

STATEMENTS

a) Pursuant to Standing Order 52(1)

The Senator for Nandi County (Sen. Samson Cherarkey, MP) made a Statement on the good performance by Kenyan athletes in the London and Boston Marathons.

The Senator highlighted that the superb performance by Kenyan athletes at the Tata Consultancy Services (TCS) London Marathon which was on Sunday, 23rd April, 2023, saw Mr. Kelvin Kiptum become the second-fastest marathon runner of all time by knocking 12 seconds off the previous course record held by fellow Kenyan, Mr. Eliud Kipchoge. Mr. Geoffrey Kamworor, came second in the race and Ms. Siffan Hassan of the Netherlands came first in the Women's edition of the Marathon, with Ms. Peres Jepchirchir, finishing third in the race.

In the Boston Marathon, the Senator highlighted that Mr. Evans Chebet become the first athlete to win back-to-back in Boston in 15 and thereby defending his 2022 title. In the same marathon, Ms. Hellen Obiri won the women's Marathon.

The Senator gave accolades to the Kenyan teams at both events and emphasized on the need for the Ministry of Sports, Athletics Kenya (AK) and the National Olympic Committee of Kenya (NOCK) to ensure that the affairs of all athletes, including finances and rewards, were well-structured to enable them grow and always remain motivated. He concluded by congratulating all the athletes and wishing them well.

b) Pursuant to Standing Order 53(1)

- (i) The Senator for Embu County (Sen. Alexander Mundigi, MP) sought a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the destruction of crops by wildlife in Embu County.
- (ii) Nominated Senator (Sen. Crystal Asige, MP) sought a Statement from the Standing Committee on Labour and Social Welfare concerning the management and collection of music royalties in Kenya.
- (iii) Nominated Senator (Sen. Hamida Kibwana, MP) sought a Statement from the Standing Committee on Health concerning allegations of shortage of oxygen in emergency care facilities in the country.
- (iv) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a Statement from the Standing Committee on Tourism, Trade and Industrialization regarding the operations and financial status of Kenya Airways.

8. PROCEDURAL MOTION – REDUCTION OF PUBLICATION PERIOD FOR THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 16 OF 2023)

Order read;

Motion made and Question proposed;

THAT, pursuant to Standing Order 139, the Senate resolves to reduce the publication period of the County Allocation of Revenue Bill (Senate Bills No. 16 of 2023) from Seven (7) days to Five (5) days.

(Sen. Veronica Maina, MP on behalf of the Senate Majority leader)

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 84(1), the Speaker informed the House that the Motion does not affect counties.

Question put and **agreed to.**

RESOLVED ACCORDINGLY

THAT, pursuant to Standing Order 139(1), the Senate resolves to reduce the publication period of the County Allocation of Revenue Bill (Senate Bills No. 16 of 2023) from Seven (7) days to Five (5) days.

9. **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 16 OF 2023)**

Order for First Reading read;

Bill read a first time and committed to the Standing Committee on Finance and Budget.

10. **THE EQUALIZATION FUND APPROPRIATION BILL (SENATE BILLS NO. 3 OF 2023)**

Order read;

Motion made and Question proposed;

THAT, the Equalization Fund Appropriation Bill (Senate Bills No. 3 of 2023) be now read a Second Time.

(The Vice Chairperson, Standing Committee on Finance and Budget – 19.04.23)

Debate interrupted on Thursday, 27th April, 2023 resumed;

There being no other Senator wishing to contribute;

The Mover replied;

Raising a point of order pursuant to Standing Order 66(3), the Mover requested the Temporary Speaker (Sen. Veronica Maina, MP) to defer putting of the Question to a later date.

And the Temporary Speaker (Sen. Veronica Maina, MP), acceding to the request, deferred putting of the Question to a later date.

11. **MOTION - ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON DELEGATED LEGISLATION ON ITS CONSIDERATION OF THE STATUTORY INSTRUMENTS (EXEMPTION FROM EXPIRY) REGULATIONS, 2022**

Order read;

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Select Committee on Delegated Legislation on its consideration of the Statutory Instruments (Exemption from Expiry) Regulations, 2022, laid on the Table of the Senate on Tuesday, 28th March, 2023; and that pursuant to Section 18 of the Statutory Instruments Act, resolves to annul in its entirety, the Statutory Instruments (Exemption from Expiry) Regulations Legal Notice No. 217 of 2022.

(The Vice Chairperson, Select Committee on Delegated Legislation)

Debate arising;

And there being no other Senator wishing to contribute;

The Mover replied;

Raising a point of order pursuant to Standing Order 66(3), the Mover requested the Temporary Speaker (Sen. Veronica Maina, MP) to defer putting of the Question to a later date.

And the Temporary Speaker (Sen. Veronica Maina, MP), acceding to the request, deferred putting of the Question to a later date.

12. **MOTION – COMPENSATION TO THE KENYAN VICTIMS OF THE 1998 BOMBING OF THE UNITED STATES EMBASSY IN NAIROBI**

Order read;

Motion made and Question proposed;

THAT, AWARE THAT, disaster is defined as an overwhelming event and circumstance that tests the adaptation of responses of a community or individuals beyond their capability and leads momentarily to massive disruption of function for a community or individual that often exceeds their capacity to cope using existing resources;

FURTHER AWARE THAT, such was the case with the 1998 US Embassy Bomb disaster in Nairobi in which many of the Kenyan casualties resulted from the collapse of adjacent buildings located within a two to three block radius, and with reverberations being felt in most parts of Nairobi that resulted in 213 Kenyans and 12 Americans killed and over 5000 citizens of both countries being seriously injured;

NOTING THAT, US Allies, including Kenya, have endured the great burden of death, and long-term and in many instances permanent, physical and psychological injury;

FURTHER NOTING THAT, the United States Government has since compensated some of the victims and families of US citizens, leaving the families of Kenyan citizens and certain other victims uncompensated;

NOW, THEREFORE, the Senate resolves that the Ministry of Foreign Affairs:

- (i) Advances friendship and co-operation between the United States and Kenya by supporting the eligibility of Kenyan and American victims and

their personal representatives, surviving spouses and next of kin in the Victim Compensation Fund pursuant to the Justice for United States Victims of State Sponsored Terrorism Act; and

- (ii) Partners with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast.

(Sen. Agnes Kavindu Muthama, MP)

Debate arising;

Raising a Point of Order pursuant to Standing Order 110(1), the Senator for Nandi County (Samson Cherarkey, MP) claimed to move –

THAT, the debate be now adjourned.

And the Temporary Speaker (Sen. Veronica Maina, MP), acceding to the claim;

Question put and **agreed to.**

13. **MOTION – THE DOPING MENACE THREATENING KENYA’S IMPECCABLE GLOBAL REPUTATION IN ATHLETICS**

Order read;

Motion made;

THAT, AWARE THAT in 2018 Kenya was placed under Category A by the world Anti-Doping Agency and since then forty Kenyan athletes have been banned by either the Athletics Integrity Unit (AIU) or the Anti-Doping

Agency of Kenya (ADAK) and has led to a situation whereby the Kenyan athletes have to undergo intense testing before participating in major events and has immensely affected the reputation of the Kenyan athletes and the standing of Kenya in the international Sports arena where it currently ranks at number five;

CONCERNED THAT, despite the high number of alleged doping cases Kenya has only one World Anti- Doping Agency (WADA) approved blood testing laboratory forcing it to send urine tests to Qatar and South Africa for analysis and that the Anti- Doping Agency of Kenya (ADAK) is taking too long to address the doping menace which is likely to affect the state of preparedness for the athletes in the upcoming 2024 Olympic games in Paris;

NOW THEREFORE the Senate resolves that the Ministry of Youth, Sports and Arts:-

- a) Come up with modalities that can help achieve increased testing, intelligence gathering on athletes and doping awareness programmes;

- b) In collaboration with Athletics Kenya (AK) and National Olympic Committee of Kenya (NOCK) to vet all training camps, coaches, trainers and other athlete handlers;
- c) Initiate investigations at Anti – Doping Agency Kenya (ADAK) to identify and sanction all responsible officers liable for the menace of doping;
- d) In collaboration with the Directorate of Criminal Investigations and the Ethics and Anti – Corruption Commission finalize pending investigations and recommend prosecution of individuals involved in giving this banned substance to athletes; and
- e) In collaboration with the Ministry of Health to identify and revoke licenses for medics, pharmacies, and hospitals responsible for the prescription of the commonly abused drugs by the athletes.

(Sen. Samson Cherarkey, MP)

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Veronica Maina, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

14. **SENATE ROSE** – at thirty minutes past six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, May 03, 2023 at 9:30 a.m.*

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