



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, MAY 15, 2024 (AFTERNOON SITTING)

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 Hon. Senators present at the commencement of the Sitting and confirming that there was no Quorum, directed that the Bell be rung for ten minutes, pursuant to Standing Order 40;

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

The Speaker 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. **Submission to the Senate of reports on the implementation of budgets of the National and County Governments by the Controller of Budget**

“Honourable Senators,

As you may recall, at the sitting of the Senate held on Tuesday, 19th March, 2024, the Senate Majority Leader, Sen. Aaron Cheruiyot, MP, rose on a Point of Order, seeking the intervention of the Speaker on the submission to Parliament, by the Controller of Budget, of the reports on the implementation of budgets of the national and county governments.

In the Point of Order, the Senate Majority Leader highlighted that from previous practice, quarterly reports on the implementation of budgets

of the national and county governments submitted to Parliament by the Controller of Budget, were made available to Senators in their designated pigeonholes. The Senator further stated that in the recent past, he noted a deviation from this established practice, expressing concern that the lack of submission of the reports by the Controller of Budget, was hindering the Senators' ability to effectively fulfil their oversight function.

To this end, the Senate Majority Leader sought the guidance of the Speaker, to require the Controller of Budget to resume submission of the Quarterly Reports to the Senate, and reinstatement of the practice of making the reports available in the Senators' pigeonholes.

Honourable Senators,

The point of order raised by the Senate Majority Leader was supported by the Senator for Kisii County, Sen. Richard Onyonka, MP, and the Senator for Narok County, Sen. Ledama Olekina, MP, who expressed concern that vital information on reports of the Controller of Budget was available in the media before submission of the reports to the Senate. The Senators further highlighted concerns about potential misinterpretation of the reports by the Controller of Budget in the media.

Upon listening to the contributions made by the Senators on the point of order raised by the Senate Majority Leader, I directed that the Controller of Budget appears before the Senate on Wednesday, 27th March, 2024, to respond to the concerns raised by Senators on the matter and to give an undertaking on the submission of the reports to the Senate.

Honourable Senators,

Article 228 (6) of the Constitution requires the Controller of Budget to: *"... submit to each House of Parliament a report on the implementation of the budgets of the national and county governments."*

I have perused a report on Papers Laid in the Senate to ascertain whether the Controller of Budget has been adhering to the provision of the Constitution referred to above, and to establish that the reports on budget performance for county governments and national government have been submitted to the Senate. From the report, the Controller of Budget has submitted the following reports: -

- i. Annual County Governments Budget Implementation Review Report for the financial year 2021/2022 (First Half);

- ii. Annual National Governments Budget Implementation Review Report for the financial year 2021/2022;
- iii. County Governments Budget Implementation Review Report for the financial year 2021/2022 (First Nine Months);
- iv. County Governments Budget Implementation Review Report for the financial year 2021/2022 (First Quarter);
- v. Annual County Governments Budget Implementation Review Report for the financial year 2021/2022;
- vi. County Governments Budget Implementation Review Report for the first quarter of the financial year 2022/2023;
- vii. National Governments Budget Implementation Review Report for the first quarter of the financial year 2022/2023;
- viii. National Governments Budget Implementation Review Report for the financial year 2021/2022;
- ix. National Governments Budget Implementation Review Report for the first half of the financial year 2022/2023;
- x. County Governments Budget Implementation Review Report for the first half of the financial year 2022/2023;
- xi. National Governments Budget Implementation Review Report for the first nine months, May, 2023;
- xii. County Governments Budget Implementation Review Report for the first nine months, May, 2023;
- xiii. National Governments Budget Implementation Review Report for the financial year 2022/2023;
- xiv. Annual County Governments Budget Implementation Review Report for the financial year 2022/2023;
- xv. National Governments Budget Implementation Review Report for the First Three Months of the financial year 2023/2024;
- xvi. National Governments Budget Implementation Review Report for the first six months for the financial year 2023/2024; and
- xvii. County Governments Budget Implementation Review Report for the first half for the financial year 2023/2024.

These reports were tabled before the Senate on diverse dates between 6th October, 2022 and 5th March, 2024, and subsequently referred to the Standing Committee on Finance and Budget. The reports are available for circulation to all Honourable Senators through the Senate Journals Office.

Honourable Senators,

That being the case, the matter of the appearance of the Controller of Budget before the Senate does not arise. The matter rests there.

I thank you.”

ii. Substantiation of facts that a Senator alleges to be true

“Honourable Senators,

As you may recall, at the sitting of the Senate held yesterday, Tuesday, 14th May, 2024, I directed Sen. Samson Cherarkey, MP to substantiate utterances made in the course of debate, following a Point of Order raised by the Senator for Siaya County, Sen. (Dr.) Oburu Oginga, MP, pursuant to Standing Order 105(2).

Standing Order 105 provides that –

(1) “A Senator shall be responsible for the accuracy of any facts that the Senator alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order 121 (Disorderly conduct), unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

Honourable Senators,

In the Point of Order raised by Sen. (Dr.) Oburu Oginga, MP, Sen. Samson Cherarkey, MP, was required to substantiate the claim that... *“For example, we have seen that the Deputy Governor of Siaya County cannot access his office. He does not have a vehicle, fuel or any resources allocated.....”*

Sen. Samson Cherarkey, MP, was not able to substantiate his statements as required pursuant to Standing Order 105(1), and subsequently requested the Speaker to provide the evidence at the next sitting day in accordance with standing Order 105 (2). Having acceded to the request, I directed that the Senator substantiates the allegations at the next sitting day.

Honourable Senators,

Pursuant to Standing Order 105 (2), I now invite Sen. Samson Cherarkey, MP to forthwith substantiate the claims, as raised in the Point of Order by Sen. (Dr.) Oburu Oginga, MP, failure to which, the Senator shall be deemed to be disorderly within the meaning of

Standing Order 121. In the absence of such substantiation, the Senator will be required to withdraw the statements and apologize to the Senate.

I thank you.”

Thereupon, Sen. Samson Cherarkey, MP, tabled a letter addressed to the Speaker of the Senate by the Deputy Governor of Siaya County. The letter sought the intervention of the Standing Committee on Devolution and Intergovernmental Relations on refusal by the Governor of Siaya County to accept him back to Siaya County despite the Senate’s decision on his impeachment.

5. **PETITIONS**

- i. Pursuant to Standing Order 238 (2), Sen. (Dr.) Boni Khalwale, MP on behalf of the Chairperson, Standing Committee on National Security, Defence and Foreign Relations laid on the Table of the Senate, the Report of the Standing Committee on a Petition to the Senate by residents of Kajiado East and West Sub-Counties, concerning alleged rampant livestock theft in the region and within Kajiado County in general.
- ii. Pursuant to Standing Order 238 (2), Sen. (Dr.) Boni Khalwale, MP on behalf of the Chairperson, Standing Committee on National Security, Defence and Foreign Relations laid on the Table of the Senate, the Report of the Standing Committee on a Petition to the Senate by Mr. Isaiah Ochanda, an employee of the former Department of Defence, concerning the non-fulfilment of a court order and decree made in 2011, against the Ministry of Defence and the Attorney General, and the non-payment of Disability Pension from 1996 to date.
- iii. Pursuant to Standing Order 238 (2), Sen. (Dr.) Boni Khalwale, MP on behalf of the Chairperson, Standing Committee on National Security, Defence and Foreign Relations laid on the Table of the Senate, the Report of the Standing Committee on a Petition to the Senate by residents of Samburu County, concerning persistent insecurity, cattle rustling, loss of lives and property in Lorroki and Malaso Divisions of Samburu Central Sub County.

6. **PAPERS LAID**

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

- i.) Report of the Auditor General on Financial Statements of Thika Municipality for the year ended 30th June, 2023.
- ii.) Report of the Auditor General on Financial Statements of Kikuyu Municipality for the year ended 30th June, 2023.

- iii.) Report of the Auditor General on Financial Statements of Kiambu County Jiinue Fund for the year ended 30th June, 2023.
- iv.) Report of the Auditor General on Financial Statements of County Assembly of Embu Car Loan and Mortgage (Members) Schemed Fund for the year ended 30th June, 2023.
- v.) Report of the Auditor General on Financial Statements of Trans Nzoia County Public Service Board for the year ended 30th June, 2023.
- vi.) Report of the Auditor General on Financial Statements of Kakamega Municipality for the year ended 30th June, 2023.

(The Senate Majority Leader)

- vii.) Report of the Standing Committee on National Security, Defence and Foreign Relations on the Elgeyo Marakwet County Assembly resolution on measures to curb banditry in Kerio Valley.

(The Senate Majority Leader on behalf of the Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

7. **NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE STANDING ON HEALTH ON THE INQUIRY INTO THE ALLEGED IRREGULARITIES IN THE PROCUREMENT OF LONG-LASTING INSECTICIDE TREATED NETS AT THE KENYA MEDICAL SUPPLIES AUTHORITY (KEMSA)**

(The Majority Leader on behalf of the Chairperson, Standing Committee on Health)

THAT, the Senate adopts the report of the Standing Committee on Health on the inquiry into alleged irregularities in the procurement of long-lasting insecticide-treated nets at the Kenya Medical Supplies Authority (KEMSA), laid on the Table of the Senate on Wednesday, 8th May, 2024.

8. **QUESTIONS AND STATEMENTS**

a) Statement pursuant to Standing Order 52 (1)

Statement by Nominated Senator (Sen. Hamida Kibwana, MP) on the appointment of Major General Fatuma Ahmed as the first female Kenya Airforce Service Commander and Major General was deferred in the absence of the Senator.

b) Requests for Statement pursuant to Standing Order 53 (1)

- i) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a Statement from the Standing Committee on National Security,

Defence and Foreign Relations regarding reported confrontations between officers from the Kenya Defence Forces (KDF) and the National Police Service (NPS).

- ii) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a Statement from the Standing Committee on Roads and Transportation regarding the status of roads in Nandi County.
- iii) Request for a Statement by Nominated Senator (Sen. Veronica Maina, MP) from the Standing Committee on Land, Environment and Natural Resources regarding landslides in Kigumo Constituency in Murangá County was deferred in the absence of the Senator.
- iv) Request for a Statement by Nominated Senator (Sen. Beatrice Ogola, MP) from the Standing Committee on Information, Communication and Technology regarding the implementation of the digital literacy programme (DLP) by the Ministry of Information, Communications and the Digital Economy was deferred in the absence of the Senator.
- v) Request for a Statement by Nominated Senator (Sen. Karen Nyamu, MP) from the Standing Committee on Roads and Transportation concerning the improvement of road infrastructure and enhancement of road safety in the country was deferred in the absence of the Senator.
- vi) Request for a Statement by Nominated Senator (Sen. Crystal Asige, MP) from the Standing Committee on Trade, Industrialization and Tourism regarding the Strategic Trade and Investment Partnership (STIP) between the United States of America and Kenya was deferred in the absence of the Senator.

9. **THE MATERNAL, NEWBORN AND CHILD HEALTH BILL (SENATE BILLS NO. 17 OF 2023)**

Order for Second Reading read;

Motion made and Question proposed -

THAT, the Maternal, Newborn and Child Health Bill (Senate Bills No. 17 of 2023) be now read a Second Time.

(Sen. Beatrice Ogolla, MP – 16.04.2024)

Debate interrupted on Tuesday, 14th May, 2024 resumed on a Division;

The Speaker directed that electronic voting be taken, pursuant to Standing Order 86(2) and that the Division bell be rung for one minute;

Upon the expiry of the one minute, the Speaker directed that the doors be locked and the bars be drawn and asked Senators to log-in for electronic voting;

The Speaker put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and pursuant to provisions of Standing Order 86 (5), the Speaker allowed four (4) Senators to record their vote verbally.

Thereupon, the following Senators recorded their vote as **“Yes”**-

1. Sen. Ekomwa, James Lomenen, MP
2. Sen. Maanzo, Daniel Kitonga, MP
3. Sen. Muthama, Agnes Kavindu, MP
4. Sen. Osotsi Godfrey Atieno, MP

The results of the Division were as follows: -

AYES – 25

NOES - 0

ABSTENTION – 0

AYES

1. Sen. Abass Sheikh Mohamed, MP
2. Sen. Boy, Issa Juma, MP
3. Sen. Cherarkey Samson, MP
4. Sen. Cheruiyot Aaron Kipkirui, MP
5. Sen. Chute, Mohamed Said, MP
6. Sen. Ekomwa, James Lomenen, MP – voted verbally
7. Sen. Haji, Abdul Mohammed, MP
8. Sen. Kathuri, Murungi, MP
9. Sen. Khalwale, Boni, MP
10. Sen. Maanzo, Daniel Kitonga, MP – voted verbally
11. Sen. Madzayo Stewart Mwachiru, MP
12. Sen. Mungatana, Danson Buya, MP
13. Sen. Murango James Kamau, MP
14. Sen. Muthama, Agnes Kavindu, MP – voted verbally
15. Sen. Mwenda Gataya Mo Fire, MP
16. Sen. Mwinyihaji Mohamed Faki, MP
17. Sen. Olekina Ledama, MP
18. Sen. Onyonka, Richard Momoima, MP
19. Sen. Osotsi Godfrey Atieno, MP – voted verbally
20. Sen. Recha Julius Murgor, MP

21. Sen. Omar, Mariam Sheikh, MP – voted on behalf of the Mandera County Delegation
22. Sen. Seki Lenku Ole Kanar, MP
23. Sen. Wafula David Wakoli, MP
24. Sen. Wakili Hillary Sigei, MP
25. Sen. Wambua, Enoch Kiio, MP

Question, agreed to;

Bill read a Second Time and committed to the Committee of the Whole tomorrow.

10. **COMMITTEE OF THE WHOLE**

Order for the Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Catherine Mumma, MP – in the Chair)

The Gambling Control Bill (National Assembly Bills No. 70 of 2023)

Clauses 3 - 4

Motion made and Question proposed;

THAT, Clauses 3 and 4 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 3 and 4 - vote deferred

Clause 5 - amendment proposed;

THAT, clause 5 of the Bill is amended by inserting the following new paragraphs immediately after paragraph (e) –

- (ea) develop and implement county legislation on betting and other forms of gambling;
- (eb) license prize competitions within a county;
- (ec) license amusement machines;
- (ed) issue trade permits for betting premises;
- (ee) license and issue pool table permits within the county;
- (ef) license and supervise county lotteries;
- (eg) issue trade permits for premises for totalisators;

(The Vice Chairperson, Standing Committee on Labour and Social Welfare - 14.05.2024)

Clause 5 - vote deferred

Clause 6

Motion made and Question proposed;

THAT, Clause 6 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clause 6 - vote deferred

Clause 7 - amendment proposed;

THAT, clause 7 (1) of the Bill be amended by-

(a) deleting paragraph (d) and substituting therefor the following new paragraph—;

(d) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with a background in finance, law, betting and lotteries or business management, provided that—

- (i). one shall represent persons with disabilities;
- (ii). one shall represent the youth; and
- (iii). one shall represent faith-based organisations;

(b) deleting paragraph (e) and substituting therefor the following new paragraph—;

(e) three persons nominated by the Council of Governors and appointed by the Cabinet Secretary; and

(c) deleting paragraph (f)

*(The Vice Chairperson, Standing Committee on Labour and Social Welfare -
14.04.2024)*

Clause 7 - vote deferred

Clauses 8 - 9

Motion made and Question proposed;

THAT, Clauses 8 and 9 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 8 and 9 - vote deferred

Clause 10 - amendment proposed;

THAT, clause 10 of the Bill be amended—

- (a) by deleting paragraph (c);
- (b) in paragraph (f) by inserting the words “in consultation with county governments” immediately after the word “maintain” and
- (c) in paragraph (g) by inserting the words “beneficial owners” immediately after the word “directors”

*(The Vice Chairperson, Standing Committee on Labour and Social Welfare -
14.04.2024)*

Further amendment proposed;

THAT, clause 10 of the Bill be further amended by inserting the following new paragraph immediately after paragraph (n)—

(na) in collaborate with the Kenya Revenue Authority, established under section 3 of the Kenya Revenue Authority Act, establish a monitoring system for tax compliance under this Act.

(Sen. Wakili Hillary Sigei, MP)

Clause 10 - vote deferred

Clauses 11 - 20

Motion made and Question proposed;

THAT, Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 - vote deferred

Clauses 21 - 27

Motion made and Question proposed;

THAT, Clauses 21, 22, 23, 24, 25, 26 and 27 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 21, 22, 23, 24, 25, 26 and 27 - vote deferred

Clause 28 - amendment proposed;

THAT, clause 28 of the Bill be amended—

(a) in subclause (2) by deleting paragraphs (o), (p) and (q); and
(b) by deleting subclause (4).

(Sen. Samson Cherarkey, MP - 14.05.2024)

Clause 28 - vote deferred

Clauses 29 - 30

Motion made and Question proposed;

THAT, Clauses 29 and 30 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 29 and 30 - vote deferred

Clause 31 - amendment proposed;

THAT, clause 31 of the Bill be amended in subclause (3) by deleting the word “twelve” appearing immediately after the words “a period of” and substituting therefor the word “thirty six”.

(Sen. Samson Cherarkey, MP - 14.04.2024)

Clause 31 - vote deferred

Clauses 32 - 40

Motion made and Question proposed;

THAT, Clauses 32, 33, 34, 35, 36, 37, 38, 39 and 40 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 32, 33, 34, 35, 36, 37, 38, 39 and 40 - vote deferred

Clauses 41 - 50

Motion made and Question proposed;

THAT, Clauses 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50 - vote deferred

Clauses 51 - 60

Motion made and Question proposed;

THAT, Clauses 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60 - vote deferred

Clauses 61 - 63

Motion made and Question proposed;

THAT, Clauses 61, 62 and 63 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 61, 62 and 63 - vote deferred

Clause 64 - amendment proposed;

THAT clause 64 of the Bill be amended in subclause (5) by deleting the word “twenty shillings” appearing at the end of the subclause and substituting therefor the words “one shilling”.

(Sen. Samson Cherarkey, MP - 14.04.2024)

Clause 64 - vote deferred

Clause 65

Motion made and Question proposed;

THAT, Clause 65 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clause 65 - vote deferred

Clause 66 - amendment proposed;

THAT clause 66 of the Bill be amended by deleting the words “shall ensure that its” appearing immediately after the word “Authority” and substituting therefor the words “and county governments shall ensure that their”.

(The Vice Chairperson, Standing Committee on Labour and Social Welfare - 14.04.2024)

Clause 66 - vote deferred

Clauses 67 - 68

Motion made and Question proposed;

THAT, Clauses 67 and 68 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 67 and 68 - vote deferred

Clause 69 - amendment proposed;

THAT, Bill be amended by deleting clause 69 and substituting therefor the following new clause—

Online gambling transaction. 69. An online gambling transaction shall commence when a player deposits money into his or her gaming account and shall conclude when a player withdraws money from his or her gaming account.

(Sen. Edwin Sifuna, MP - 14.05.2024)

Clause 69 - vote deferred

Clause 70

Motion made and Question proposed;

THAT, Clause 70 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clause 70 - vote deferred

Clause 71 - amendment proposed;

THAT, clause 71 of the Bill be amended in subclause (3) by deleting the words “five million” appearing immediately after the words “not less than” and substituting therefor the words “fifty thousand”.

(Sen. Samson Cherarkey, MP - 14.04.2024)

Clause 71 - vote deferred

Clauses 72 - 80

Motion made and Question proposed;

THAT, Clauses 72, 73, 74, 75, 76, 77, 78, 79 and 80 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 72, 73, 74, 75, 76, 77, 78, 79 and 80 - vote deferred

Clauses 81 - 86

Motion made and Question proposed;

THAT, Clauses 81, 82, 83, 84, 85 and 86 be part of the Bill

(The Senate Majority Leader - 14.04.2024)

Clauses 81, 82, 83, 84, 85 and 86 - vote deferred

Clause 87 - amendment proposed;

THAT, clause 87 of the Bill be amended—

(a) in subclause (2) by deleting paragraph (e); and

(b) by deleting subclause (4) and substituting therefor the following new subclause—

(4) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(Sen. Wakili Hillary Sigei, MP)

Further amendment proposed;

THAT, clause 87 (2) of the Bill be amended in paragraph (e) by deleting the word “six” appearing immediately after the words “radio between” and substituting therefor the word “five”.

*(The Vice Chairperson, Standing Committee on Labour and Social Welfare -
14.04.2024)*

Clause 87 - vote deferred

Clauses 88 - 100

Motion made and Question proposed;

Clauses 120, 121 and 122 - vote deferred

Clause 123 - amendment proposed;

THAT, clause 123 of the Bill be amended by renumbering the current provision as sub clause (1) and inserting therefor the following new sub clauses immediately after the new clause (1)—

Cap 269 (2) The Kenya Revenue Authority Act, is amended in Part II of the First Schedule, by deleting paragraph 7 and substituting therefor the following new paragraph—

7. The Gambling Control Act.

No. 20 of 2023 (3) The National Lottery Act, is amended by inserting the following new clause immediately after clause 52—

Regulations 53. (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.

(2) Without prejudice to the foregoing, regulations made under this section may provide for—

- (a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;
- (b) the conduct of a national lottery;
- (c) apportionment of the proceeds of the national lottery;
- (d) procedure for the sale of tickets, prizes of tickets and payment of prizes;
- (e) announcement and protection of winners of the national lottery;
- (f) the circumstances under which the national lottery may be advertised; and
- (g) the places where, circumstances or manner in which signs relating to a national lottery may be displayed.

*(The Vice Chairperson, Standing Committee on Labour and Social Welfare -
14.04.2024)*

Clause 123 - vote deferred

New Clause 117A - insertion of new clause proposed;

THAT, the Bill be amended by inserting the following new clause immediately after clause 117—

Operating hours 117A. A licensed betting, gambling, lottery or gaming premise shall operate between ten o’ clock in the evening and five o’ clock in the morning.

Motion made and Question proposed;

THAT, New Clause 117A be now read a Second Time

(The Vice Chairperson, Standing Committee on Labour and Social Welfare - 14.04.2024)

New Clause 117A - vote deferred

The First and Second Schedules

Motion made and Question proposed;

THAT, the First and Second Schedules be part of the Bill

(The Senate Majority Leader - 14.04.2024)

The First and Second Schedules - vote deferred

The Third Schedule - amendment proposed;

THAT, the Third Schedule of the Bill be amended in—

- (a) paragraph (b) by deleting the amount “200, 000, 000” and substituting therefor the amount “20,000, 000”; and
- (b) paragraph (c) by deleting the amount “200, 000, 000” and substituting therefor the amount “20,000, 000”.

(Sen. Samson Cherarkey, MP - 14.04.2024)

The Third Schedule - vote deferred

Clause 2, the Title and Clause 1

Motion made and Question proposed;

THAT, Clause 2, the Title and Clause 1 be part of the Bill.

(The Senate Majority Leader - 14.04.2024)

Clause 2, the Title and Clause 1

- vote deferred

Progress Report

Motion made –

THAT, the Committee of the Whole House do report to the Senate its consideration of the Gambling Control Bill (National Assembly Bills No. 70 of 2023) and seek leave to sit again tomorrow;

(Sen. Tabitha Keroche, MP on behalf of the Senate Majority Leader)

Before the Question was put and pursuant to Standing Order 84(1), the Acting Chairperson (Sen. Catherine Mumma, MP) ruled that the Question did not affect counties;

Question put and agreed to.

11. **THE HOUSE RESUMED** – (Deputy Speaker – in the Chair)
12. **THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILLS NO. 70 OF 2023)**

Progress reported;

Motion made and Question proposed;

THAT, the Senate do agree with the Committee of the Whole in the said Report.

(Sen. Tabitha Keroche, MP on behalf of the Senate Majority Leader)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 84(1), the Deputy Speaker ruled that the Motion does not affect counties.

Question put and agreed to.

13. **COMMITTEE OF THE WHOLE**

Order for the Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Catherine Mumma, MP) – in the Chair)

The Conflict of Interest Bill (National Assembly Bills No. 12 of 2023)

Clause 3 - amendment proposed

THAT clause 3 of the Bill be amended in subclause (1) by deleting paragraph (c) and substituting therefor the following new paragraph –

(c) enhance public confidence in the integrity of public office and delivery of public services.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 3 - vote deferred

Clause 4

Motion made and Question proposed;

THAT, Clause 4 be part of the Bill.

(The Senate Majority Leader)

Clause 4 - vote deferred

Clause 5 - amendment proposed

THAT clause 5 of the Bill be amended by –

- (a) renumbering the existing clause as subclause (1);
- (b) deleting the words “and the Ethics and Anti-Corruption Commission” appearing immediately after the words “reporting authorities”; and
- (c) inserting the following new subclause immediately after the existing subclause –

(2) A reporting authority shall, for the purpose of subsection (1), –

- (a) oversee the management of conflict of interest for all public officers it is responsible for;
- (b) promote best practices for the management of conflict of interest; and
- (c) conduct public awareness on the management of conflict of interest.

(Sen. Ledama Olekina, MP)

Clause 5

- vote deferred

Clause 6

- amendment proposed

THAT, the Bill be amended by deleting clause 6.

(Sen. Ledama Olekina, MP)

Clause 6

- vote deferred

Clause 7

- amendment proposed

THAT clause 7 of the Bill be amended –

- (a) in the marginal note by deleting the words “the Commission” appearing immediately after the words “powers of” and substituting therefor the words “a reporting entity”;
- (b) by deleting the words “The Commission” appearing at the beginning of the introductory clause and substituting therefor the words “A reporting entity”; and
- (c) by deleting paragraph (c); and
- (d) by deleting paragraph (d) and substituting therefor the following new paragraph –

(d) co-operate and collaborate with other public entities or agencies in the management of conflict of interest and enforcement of this Act.

(Sen. Ledama Olekina, MP)

Clause 7

- vote deferred

Clauses 8, 9 and 10

Motion made and Question proposed;

THAT, Clauses 8, 9 and 10 be part of the Bill.

(The Senate Majority Leader)

Clauses 8, 9 and 10

- vote deferred

Clause 11

- amendment proposed

THAT, the Bill be amended by deleting clause 11.

(Sen. Ledama Olekina, MP)

Clause 11

- vote deferred

Clause 12

Motion made and Question proposed;

THAT, Clause 12 be part of the Bill.

(The Senate Majority Leader)

Clause 12

- vote deferred

Clause 13

- amendment proposed

THAT, clause 13 of the Bill be amended in subclause (1) by deleting the words “interest of the officer or the interests” appearing immediately after the word “to further the” and substituting therefor the words “private interest of the officer or”.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 13

- vote deferred

Clause 14

Motion made and Question proposed;

THAT, Clause 14 be part of the Bill.

(The Senate Majority Leader)

Clause 14

- vote deferred

Clause 15

- amendment proposed

THAT, clause 15 of the Bill be amended in subclause (1)(b) by deleting the word “offer” appearing immediately after the words “reporting authority any” and substituting therefor the word “acceptance”.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 15

- vote deferred

Clauses 16, 17 and 18

Motion made and Question proposed;

THAT, Clauses 16, 17 and 18 be part of the Bill.

(The Senate Majority Leader)

Clauses 16, 17 and 18

- vote deferred

Clause 19

- amendment proposed

THAT clause 19 of the Bill be amended –

- (a) in subclause (1) by deleting the words “or beneficiary of” appearing immediately after the words “be a party to”; and
- (b) in subclause (2) by deleting the words “or beneficiary of” appearing immediately after the words “be a party to”.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Further amendment proposed;

THAT clause 19 of the Bill be further amended by inserting the following subclause immediately after subclause (2) –

(2A) Despite subsection (2), a public officer may be a party to a contract for the disposal of goods in relation to a computer, a telephone or any other device capable of storing personal information and the computer, telephone or the device was for the exclusive use of the officer.

(Sen. Ledama Olekina, MP)

Clause 19

- vote deferred

Clause 20

- amendment proposed

THAT the Bill be amended by deleting clause 20.

(Sen. Ledama Olekina, MP)

Clause 20

- vote deferred

Clauses 21 and 22

Motion made and Question proposed;

THAT, Clauses 21 and 22 be part of the Bill.

(The Senate Majority Leader)

Clauses 21 and 22

- vote deferred

Clause 23 - amendment proposed

THAT, the Bill be amended by deleting clause 23.

(Sen. Ledama Olekina, MP)

Clause 23 - vote deferred

Clause 24 - amendment proposed

THAT, clause 24 of the Bill be amended in subclause (2) by deleting paragraph (a).

(Sen. Ledama Olekina, MP)

Clause 24 - vote deferred

Clauses 25 and 26

Motion made and Question proposed;

THAT, Clauses 25 and 26 be part of the Bill.

(The Senate Majority Leader)

Clauses 25 and 26 - vote deferred

Clause 27 - amendment proposed

THAT the Bill be amended by deleting clause 27.

(Sen. Ledama Olekina, MP)

Further amendment proposed;

THAT, clause 27 of the Bill be further amended in subclause (1) by deleting paragraph (a) and substituting therefor the following new paragraph –

(a) act for or on behalf of any person in connection with any specific proceeding, transaction, negotiation or case in which a reporting authority is a party and with respect to which the former public officer had acted for, or provided advice to the reporting authority;

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Further amendment withdrawn;

Clause 27 - vote deferred

Clause 28 - amendment proposed

THAT, the Bill be amended by deleting clause 28.

(Sen. Ledama Olekina, MP)

Clause 28 - vote deferred

Clause 29 - amendment proposed

THAT, the Bill be amended by deleting clause 29.

(Sen. Ledama Olekina, MP)

Further amendment proposed;

THAT, clause 29 of the Bill be amended by inserting the following new subclause immediately after subclause (2) –

- (3) The provisions of this section and sections 27 and 28, shall not apply to a former public officer representing another person in any proceedings before a court of law or tribunal established by law including as a witness.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Further amendment withdrawn;

Clause 29 - vote deferred

Clause 30 - amendment proposed

THAT, clause 30 of the Bill be amended –

- (a) by deleting the heading to Part IV appearing immediately before the clause;
- (b) in subclause (1) by deleting the words “decision, debate or vote” appearing immediately after the words “from any discussion” and substituting therefor the words “or decision”; and
- (c) by deleting subclause (2) and substituting therefor the following new subclause –

- (2) Where a public officer recuses himself under subsection (1), the recusal shall be recorded in the minutes of the transaction in question.

(Sen. Ledama Olekina, MP)

Clause 30 - vote deferred

Clause 31 - amendment proposed

THAT the Bill be amended by deleting clause 31.

(Sen. Ledama Olekina, MP)

Clause 31 - vote deferred

Clause 31A - amendment proposed

THAT, the Bill be amended by deleting clause 31A.

(Sen. Ledama Olekina, MP)

Clause 31A - vote deferred

Clause 31B - amendment proposed

THAT, the Bill be amended by deleting clause 31B.

(Sen. Ledama Olekina, MP)

Clause 31B - vote deferred

Clause 32 - amendment proposed

THAT, the Bill be amended by deleting clause 32.

(Sen. Ledama Olekina, MP)

Clause 32 - vote deferred

Clause 33 - amendment proposed

THAT, the Bill be amended by deleting clause 33.

(Sen. Ledama Olekina, MP)

Clause 33 - vote deferred

Clause 34 - amendment proposed

THAT, the Bill be amended by deleting clause 34.

(Sen. Ledama Olekina, MP)

Further amendment proposed;

THAT, clause 34 of the Bill be amended in subsection (2) by deleting the words “after due process” appearing immediately after the words “agency shall” and substituting therefor the words “subject to the right to privacy as provided for under the Constitution and pursuant to a court order or the Access to Information Act”.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Further amendment withdrawn;

Clause 34 - vote deferred

Clause 35 - amendment proposed

THAT, the Bill be amended by deleting clause 35.

(Sen. Ledama Olekina, MP)

Clause 35 - vote deferred

Clause 36 - amendment proposed

THAT, the Bill be amended by deleting clause 36.

(Sen. Ledama Olekina, MP)

Clause 36 - vote deferred

Clause 37 - amendment proposed

THAT, the Bill be amended by deleting clause 37.

(Sen. Ledama Olekina, MP)

Clause 37 - vote deferred

Clause 38 - amendment proposed

THAT, the Bill be amended by deleting clause 38.

(Sen. Ledama Olekina, MP)

Clause 38 - vote deferred

Clause 39 - amendment proposed

THAT, clause 39 of the Bill be amended –

- (a) in subclause (1) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;
- (b) in subclause (2) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;
- (c) in subclause (2A) by deleting the words “and the Commission” appearing immediately after the words “reporting authority”; and
- (d) in subclause (3) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”.

(Sen. Ledama Olekina, MP)

Clause 39

- vote deferred

Clause 40

- amendment proposed

THAT, clause 40 of the Bill be amended –

- (a) in subclause (1) by deleting the expression “section 48, the Commission or” appearing immediately after the word “despite” and substituting therefor the expression “section 39”; and
- (b) by deleting subclause (2) and substituting therefor the following new subclause –

(2) If the reporting authority declines to commence an investigation, the reporting authority shall inform the person who lodged the complaint and give reasons for the decision.

(Sen. Ledama Olekina, MP)

Clause 40

- vote deferred

Clause 41

- amendment proposed

THAT, clause 41 of the Bill be amended by inserting the following new clause immediately after subclause (2) –

(3) If the Commission or a reporting entity fails to conclude the investigations within ninety days, the investigations shall be deemed to have been concluded at the expiry of the ninety days and the officer shall resume his or her duties.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Clause 41

- vote deferred

Clause 42

- amendment proposed

THAT, clause 42 of the Bill be amended in subsection (1) by inserting the words “or a reporting authority” immediately after the words “the Commission”.

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Further amendment proposed;

THAT, clause 42 of the Bill be amended –

(a) by deleting the marginal note and substituting therefor the following new marginal note –

Decision of a reporting authority

(b) in subclause (1) by –

- (i) deleting the words “The Commission” appearing at the beginning of the introductory clause and substituting therefor the words “A reporting authority”;
- (ii) deleting the words “recommend to a public entity to” appearing at the beginning of paragraph (a);
- (iii) deleting the words “public entity, appointing authority or the” appearing immediately after the words “recommend to a” paragraph (b); and

(c) by deleting subclause (2).

(Sen. Ledama Olekina, MP)

Amendment by the Chairperson withdrawn;

Clause 42

- vote deferred

Clause 43

Motion made and Question proposed;

THAT, Clause 43 be part of the Bill.

(The Senate Majority Leader)

Clause 43

- vote deferred

Clause 44

- amendment proposed

THAT, clause 44 of the Bill be amended by deleting the introductory clause and substituting therefor the following new clause –

44. A reporting authority or any other person acting on their behalf shall not, unless required by law, disclose any information that comes to their knowledge in the performance of their duties under this Act, unless the disclosure is in the opinion of the reporting authority or that other person-

(Sen. Ledama Olekina, MP)

Clause 44 - vote deferred

Clause 45

Motion made and Question proposed;

THAT, Clause 45 be part of the Bill.

(The Senate Majority Leader)

Clause 45 - vote deferred

Clause 46 - amendment proposed

THAT, the Bill be amended by deleting clause 46 and substituting therefor the following new clause –

46. No criminal or civil proceedings shall lie against a reporting entity or any person acting on its behalf for anything done, reported or said in good faith in the exercise of any power or the performance of any function under this Act.

(Sen. Ledama Olekina, MP)

Clause 46 - vote deferred

Clause 47 - amendment proposed

THAT, the Bill be amended by deleting clause 47.

(Sen. Ledama Olekina, MP)

Clause 47 - vote deferred

Clause 48

Motion made and Question proposed;

THAT, Clause 48 be part of the Bill.

(The Senate Majority Leader)

Clause 48 - vote deferred

Clause 49 - amendment proposed

THAT, the Bill be amended by deleting clause 49.

(Sen. Ledama Olekina, MP)

Clause 49 - vote deferred

Clause 50 - amendment proposed

THAT, clause 50 of the Bill be amended by deleting subclause (1).

(Sen. Ledama Olekina, MP)

Clause 50 - vote deferred

Clause 51 - amendment proposed

THAT, the Bill be amended by deleting clause 51 and substituting therefor the following new clause –

51. The Anti-Corruption and Economic Crimes Act, the Public Officer Ethics Act and the Leadership and Integrity Act are amended in the manner specified in the Second Schedule.

(Sen. Ledama Olekina, MP)

Clause 51 - vote deferred

The First Schedule - amendment proposed

THAT, the Bill be amended by deleting the First Schedule.

(Sen. Ledama Olekina, MP)

The First Schedule - vote deferred

The Second Schedule - amendment proposed

THAT, the Bill be amended by deleting the Second Schedule.

(Sen. Ledama Olekina, MP)

The Second Schedule- vote deferredThe Third Schedule- amendment proposed

THAT, the Bill be amended by deleting the Third Schedule and substituting therefor the following new schedule –

**THIRD SCHEDULE
CONSEQUENTIAL AMENDMENTS**

Written Law	Provision	Amendment
The Anti-Corruption and Economic Crimes Act, Cap 65.	Section 42	Delete
The Public Officer Ethics Act, Cap 185B.	Section 2	Delete the definition of the word “public officer” and substitute therefor the following new definition – “public officer” has the meaning assigned to it under Article 260 of the Constitution;
	Section 3	Delete and substitute therefor the following new section – Determination of responsible Commission. 3. (1) This section determines what body is the responsible Commission for a public officer for the purposes of this Act. (2) The committee of the National Assembly responsible for the ethics of members is the responsible Commission for— (a) the Cabinet; (b) members of the National Assembly; (c) the Director of Public Prosecutions; (d) the secretary to the Cabinet; (e) members of the Judicial Service Commission; (f) members of commissions and independent offices specified under Chapter

Fifteen of the Constitution;
and

- (g) members of the Ethics and Anti-Corruption Commission and staff of the Commission holding the rank of Deputy Director and above.

(3) The committee of the Senate responsible for the ethics of members is the responsible Commission for senators.

(4) The committee of a county assembly responsible for the ethics of members is the responsible Commission for —

- (a) its respective county executive committee;
- (b) members of the county assembly; and
- (c) members and the secretary of its respective County Public Service Board.

(5) The Public Service Commission is the responsible Commission for —

- (a) principal secretaries;
- (b) high commissioners, ambassadors and diplomatic and consular representatives;
- (c) public officers in respect of which it exercises appointive and disciplinary control including advisors and personal staff; and
- (d) public officers who are officers, employees or members of state corporations that are public bodies.

(6) A County Public Service Board is the responsible Commission for —

(a) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and

(b) public officers who are officers, employees or members of state corporations that are public bodies.

(7) The Judicial Service Commission is the responsible Commission for judges, magistrates and the public officers in respect of which it exercises disciplinary control.

Cap. 212.

(8) The Parliamentary Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(9) A county Assembly Service Board is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

Cap. 206.

(10) The Teachers Service Commission established under the Teachers Service Commission Act is the responsible Commission for teachers registered under that Act.

(11) The Defence Council established under Article 241(5) of the Constitution is the responsible Commission for members of the armed forces.

Cap. 79.

(12) The National Intelligence Service Council established under the National Intelligence Service Act is the responsible Commission for members of the National Intelligence Service established under that Act.

(13) The National Police Service Commission is the responsible

Commission for members of the National Police Service.

(14) The Witness Protection Advisory Board established under the Witness Protection Act is the responsible commission for the members of the Witness Protection Agency established under that Act.

(15) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulation.

(16) A body that is the responsible Commission for a public officer by virtue of exercising disciplinary control over that public officer remains the responsible Commission notwithstanding the delegation of any disciplinary powers with respect to that public officer.

Section 12 Delete

Section 38 Delete and substitute therefor the following new section –
Referral for appropriate Action.

38. A responsible Commission may, pursuant to an investigation conducted under this Act, refer a matter to any other relevant public body to take appropriate action.

The Leadership and Integrity Act, Cap 185C. Section 2(2) Delete.

Section 2(2) Delete

Section 6(3) Delete

Section 6(4) Delete

Section 13(1)(a) Delete and substitute therefor the following new paragraph –

(a) demonstrate honesty in the conduct of public affairs.

Section 14 Delete

Section 16 Delete

Section 17 Delete

Section 18 Delete

Section 23 Delete

Section 28 Delete

Section 52 Delete and substitute therefor the following new section –

52. Pursuant to Article 80(c) of the Constitution, the provisions of Chapter Six of the Constitution and this Act shall apply to all public officers as if they were State officers.

(Sen. Ledama Olekina, MP)

The Third Schedule

- vote deferred

Clause 2

- amendment proposed

THAT, clause 2 of the Bill be amended –

- (a) in the definition of the word “conflict of interest” by inserting the words “a discernible” immediately after the words “public official has”;
- (b) by deleting the following definition of the word “Commission”;
- (c) by deleting the definition of the word “complementary treatment”;
- (d) by deleting the definition of the word “gainful employment”;
- (e) by deleting the definition of the word “registrable interest”;
- (f) by deleting the definition of the word “responsible Commission”;
- (g) by deleting the definition of the word “significant official dealing”; and
- (h) deleting the definition of the word “unexplained assets”.

(Sen. Ledama Olekina, MP)

Clause 2

- vote deferred

The Title and Clause 1

Motion made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill.

(The Senate Majority Leader)

The Title and Clause 1

- vote deferred

Progress Report

Motion made –

THAT, the Committee of the Whole House do report to the Senate its consideration of the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023) and seek leave to sit again tomorrow;

(The Senate Deputy Majority Leader)

Before the Question was put and pursuant to Standing Order 84 (2), the Acting Chairperson (Sen. Catherine Mumma, MP) ruled that the Question does not affect counties;

Question put and agreed to.

14. **THE HOUSE RESUMED** – (The Deputy Speaker - in the Chair)

15. **THE CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023)**

Progress reported;

Motion made and Question proposed: -

THAT, the Senate do agree with the Committee of the Whole in the said report.

(The Senate Deputy Majority Leader, MP)

There being no Senator wishing to contribute;

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

Question put and agreed to.

16. **THE STATUTORY INSTRUMENTS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 2 OF 2023)**

Order for Second Reading read;

Motion made and Question proposed -

THAT, the Statutory Instruments (Amendment) Bill (National Assembly Bills No. 2 of 2023) be now read a Second Time.

(The Senate Majority Leader)

Debate arising;

And there being no more Senators wishing to contribute;

Mover replied;

Pursuant to Standing Order 66 (3), the Mover requested for the deferment of the putting of the Question to a later date;

And the Temporary Speaker (Sen. Veronicah Maina, MP) acceding to the request, nominated Thursday, 16th May, 2024 as the day when the Question shall be put.

17. **THE METEOROLOGY BILL (SENATE BILLS NO. 45 OF 2023)**

Order for Second Reading read;

Motion made and Question proposed -

THAT, the Meteorology Bill (Senate Bills No. 45 of 2023) be now read a Second Time.

(The Senate Majority Leader)

Debate arising;

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

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

MEMORANDUM

*The Speaker will take the Chair on
Thursday, May 16, 2024 at 2:30 p.m.*