



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FOURTH SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

WEDNESDAY, NOVEMBER 5, 2025 AT 9.30 A.M.

ORDER OF BUSINESS

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Questions and Statements

- 8*. **MOTION-** **REPORT OF THE COMMITTEE OF THE WHOLE HOUSE
ON ITS CONSIDERATION OF THE ASSISTED
REPRODUCTIVE TECHNOLOGY BILL (NATIONAL
ASSEMBLY BILL NO. 61 OF 2022)**
(The Hon. Millie Odhiambo-Mabona, M.P.)

THAT, the House do agree with the report of the Committee of the whole House on its consideration of the Assisted Reproductive Technology Bill (National Assembly Bill No. 61 of 2022), except Clauses **2, 8, 14, 27, 30 and 52**, and its approval thereof with amendments, and seek leave to sit again.

(Question to be put)

- 9*. **COMMITTEE OF THE WHOLE HOUSE**

The Assisted Reproductive Technology Bill (National Assembly Bill No. 61 of 2022)
(The Hon. Millie Odhiambo-Mabona, M.P.)

*(To consider clauses 2, 8, 14, 27, 30 and 52 deferred pursuant to SO 133(10))
(Subject to Order No. 8)*

- 10*. **THE AGRICULTURAL PROFESSIONALS REGISTRATION AND
LICENSING BILL (NATIONAL ASSEMBLY BILL NO. 19 OF 2024)**
(The Hon. (Dr.) John Mutunga, M.P.)

Second Reading

- 11*. **THE ENVIRONMENTAL PROFESSIONALS INSTITUTE OF KENYA
BILL (NATIONAL ASSEMBLY BILL NO. 36 OF 2024)**
(The Hon. George Gachagua, M.P.)

Second Reading

**12*. THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL
(SENATE BILL NO. 12 OF 2023)**

(The Hon. Rahim Dawood, M.P. – *Co-Sponsor*)

Second Reading

**13*. THE SEXUAL OFFENCES (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILL NO. 78 OF 2023)**

(The Hon. Dorice Donya, M.P.)

Second Reading

Denotes Orders of the Day

NOTICES

I. THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 61 OF 2022)

- 1) Notice is given that the Chairperson of the Departmental Committee on Health intends to move the following amendments to the Assisted Reproductive Technology Bill, 2022 at the Committee stage—

LONG TITLE

THAT, the Long Title of the Bill be amended by deleting the words “to establish an Assisted Reproductive Technology Directorate”.

CLAUSE 2

THAT, Clause 2 of the Bill be amended —

- (a) by deleting the definition of the term “assisted reproductive technology” and substituting therefor the following new definition—

“assisted reproductive technology” means all techniques that attempt to obtain a pregnancy by handling the sperm or the oocyte outside the human body and transferring the gamete or the embryo into the reproductive system of a woman;

- (b) by deleting the definition of the term “child” and substituting therefor the following new definition—

“child” means an individual who has not attained the age of eighteen years;

- (c) by deleting the definition of the term “commissioning parents” and substituting therefor the following new definition—

“intended parent” means a woman or couple who enters into a surrogacy arrangement seeking assistance in procreation through the help of a surrogate mother or donor;

- (d) by deleting the definition of the term “couple” and substituting therefor the following new definition—

“couple” means a male and a female who are married or are cohabiting under the laws of Kenya;

- (e) by deleting the definition of the term “cryo-preservation” and substituting therefor the following new definition—

“cryo-preservation” means the assisted reproductive technology of freezing and storing of gametes, zygotes, embryos, ovarian and testicular tissues;

- (f) by deleting the definition of the term “Directorate” and substituting therefor the following new definition—

Cap. “Council” means the Kenya Medical Practitioners and Dentists Council
253. established under section 3 of the Medical Practitioners and Dentists Act;

- (g) by deleting the definition of the term “donation” and substituting therefor the following new definition—

“donation” means a process in assisted reproductive technology of voluntarily giving gametes for purposes of procreation;

- (h) by deleting the definition of the term “donor” and substituting therefor the following new definition—

“gamete donor” means a person who voluntarily gives his or her gametes for the purpose of fertilization in an assisted reproductive technology process;

- (i) by deleting the definition of the term “embryo” and substituting therefor the following new definition—

“embryo” means a cell or group of cells containing a diploid complement of chromosomes or group of such cells, not a gamete or gametes, that has the potential to develop into a live born human being if transferred into the body of a person under conditions in which gestation may be reasonably expected to occur;

- (j) in the definition of the term “embryologist” by inserting the words “the development, storage and transfer of embryos, and” immediately after the words “deals with”;

- (k) by deleting the definition of the term “embryology”;

- (l) in the definition of the term “endoscopic surgery” by deleting the words, “and passing a telescope with a video camera through the incision into the body cavity”;

- (m) by deleting the definition of the term “father” and substituting therefor the following new definition—

“father” means a male intended parent;

- (n) in the definition of the term “in-vitro fertilization” by deleting the words “an egg is fertilized by a sperm in a test-tube or elsewhere outside the body” and substituting therefor the words “fertilization takes place outside the body”;

- (o) by deleting the definition of the term “mother” and substituting therefor the following new definition—

“mother” means a female intended parent;

- (p) in the definition of the term “oocyte” by deleting the word “oocyte” and substituting therefor the word “egg”;
- (q) by deleting the definition of the term “parties to a marriage”;
- (r) in the definition of the term “pre-implantation genetic diagnosis” by deleting the words “and eliminating the same”;
- (p) in the definition of the term “pre-implantation screening” by deleting the words “to determine the number of chromosomes” and substituting therefor the words “to determine the viability or euploidy of an embryo before transferring to the woman’s womb”;
- (q) by deleting the definition of the term “primitive streak”;
- (r) in the definition of the term “procreation” by deleting the words “whether through an assisted reproduction technology process or through natural means” and substituting therefor the words “including through assisted reproductive technology”;
- (s) by deleting the definition of the term “sperm” and substituting therefor the following new definition—

“sperm” means the mature male human gamete;
- (t) by deleting the definition of the term “surrogacy” and substituting therefor the following new definition—

“surrogacy” means a practice whereby a woman bears and gives birth to a child for an intended parent or couple;
- (u) by deleting the definition of the term “surrogate mother” and substituting therefor the following new definition—

“surrogate mother” means a woman who has agreed to carry a pregnancy to term for another woman or couple”; and
- (v) by inserting the following new definitions in the proper alphabetical sequence—

“abandoned child” means a child born out of a surrogacy procedure who has been deserted by his or her intending parents and the surrogate and declared as such by the court after due process;

“abandonment” means failure to continue to pay for cryopreservation storage of gametes or embryos;

“altruistic surrogacy” means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses or the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative;

“clinic” means a health facility licensed under this Act for the purpose of conducting assisted reproduction procedures;

“commercial surrogacy” means the commercialization of surrogacy services or procedures or its component services or component procedures including the selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or hiring, selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or monetary incentive in cash or in kind, to the surrogate mother or her dependents or her representative, except the medical expenses or the insurance coverage for the surrogate mother;

“cryo bank” means a facility for the collection and storage of gametes and embryos and the supply of gametes to the assisted reproductive technology clinics or their patients;

“foetus” means the developing human offspring after the embryonic stage prior to birth;

“gestational surrogacy” means the process where a woman who did not provide or donate an egg carries a pregnancy for the intended parents or couple;

“ovum” means a single cell released from either of the female reproductive organs that is capable of developing into a new organism when fertilized with a sperm cell;

“parent” has the meaning assigned to it under section 2 of the Children Act;

“pre-implantation genetic testing” means all techniques used to identify genetic defects and aneuploidy in embryos created through in-vitro fertilization before transfer;

“supervisor” means the person responsible for activities authorized under the licence issued under this Act;

“surrogacy agreement” means an agreement between a surrogate and an intended parent or couple that the surrogate is to undergo an assisted reproduction procedure for purposes of having a child born as a result of such a procedure for the intended parent or couple; and

“zygote” means a diploid cell resulting from the fusion of two haploid gametes.

CLAUSE 4

THAT, Clause 4 of the Bill be amended by—

- (a) deleting the words “object and purpose” appearing in the marginal note and substituting therefor the word “objects” and
- (b) inserting the following new paragraphs immediately after paragraph (c) —

- “(d) ensure the best interest of children;
- (e) facilitate the registration of children born out of gestational surrogacy arrangements;
- (f) promote research into the incidence, causes and prevention of infertility;
- (g) provide a framework for surrogacy arrangements;
- (h) prohibit commercial surrogacy; and
- (i) establish an assisted reproductive technology committee”.

PART II

THAT, the Bill be amended by deleting the heading of Part II and substituting therefor the following new heading—

“PART II- ASSISTED REPRODUCTIVE TECHNOLOGY COMMITTEE”.

CLAUSE 5

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

Assisted
Reproductive
Technology
Committee.

5. (1) The Council shall establish a Committee to be known as the Assisted Reproductive Technology Committee.

(2) The Committee shall conduct its business and affairs in accordance with the provisions of the Schedule.

CLAUSE 6

THAT, Clause 6 of the Bill be amended in—

- (a) the opening sentence by deleting the word “Directorate” and substituting therefor the word “Council”;
- (b) paragraph (i), by deleting the words “in consultation with the Medical Practitioners and Dentist Council,”; and
- (c) paragraph (o), by deleting the word “Directorate” and substituting therefor the word “Council”.

CLAUSE 7

THAT, Clause 7 of the Bill be amended by deleting the words “National Government” and substituting therefor the words “Cabinet Secretary”.

CLAUSE 8

THAT, Clause 8 of the Bill be amended by—

- (a) deleting paragraph (a);
- (b) deleting the words “including finances required to hire adequate personnel” appearing in paragraph (b); and
- (c) deleting the words “sufficient” and “adequately” appearing in paragraph (c).

CLAUSE 9

THAT, the Bill be amended by deleting Clause 9.

CLAUSE 10

THAT, the Bill be amended by deleting Clause 10.

CLAUSE 12

THAT, Clause 12 of the Bill be amended in sub-clause (1) by deleting the words “written consent, in accordance with the prescribed Regulations, to its use for that purpose” and substituting therefor the words “written informed consent”.

CLAUSE 13

THAT, Clause 13 of the Bill be amended in—

- (a) the marginal note by inserting the word “informed” immediately before the word “consent”; and
- (b) sub-clause (1) by deleting the words “written consent, in a manner prescribed by Regulations, to its removal for that purpose” and substituting therefor the words “written informed consent”.

CLAUSE 14

THAT, Clause 14 of the Bill be amended by deleting the words “a medical doctor” and substituting therefor the words “an assisted reproductive technology expert”.

CLAUSE 15

THAT, Clause 15 of the Bill be amended in sub-clause (1) by deleting the word, “purely” appearing in paragraph (c).

CLAUSE 16

THAT, Clause 16 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b)—

“(c) a gamete or embryo other than that consented to by the woman;”

CLAUSE 17

THAT, Clause 17 of the Bill be amended by—

- (a) deleting the word “minor” appearing in the marginal note and substituting therefor the words “a child ”; and
- (b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

“(1) A person shall not obtain a sperm or ovum from a child or use any sperm or ovum obtained from a child except for medical reasons and future human procreation by the child and with informed consent of the child, parent or legal guardian of the child.”

CLAUSE 18

THAT, Clause 18 of the Bill be amended by—

- (a) deleting the marginal note and substituting the following new marginal note—

“Restrictions on the use of embryos”; and
- (b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

“(1) A person shall not—

 - (a) keep or use an embryo other than a human embryo;
 - (b) place a human embryo in any animal;
 - (c) transfer an embryo in a woman other than a human embryo;
 - (d) keep or use a human embryo in circumstances prohibited under this Act or as prescribed by regulations;
 - (e) replace any part of a human embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such replacement is for purposes of solving a medical problem; or
 - (f) undertake any form of human cloning.”

CLAUSE 19

THAT, Clause 19 of the Bill be amended in sub-clause (1) by—

- (a) inserting the word “informed” immediately after the words “without his” appearing in paragraph (b);
- (b) inserting the word “informed” immediately after the words “without her” appearing in paragraph (c);
- (c) deleting the words “place sperm and eggs or embryo in a woman” appearing in paragraph (e) and substituting therefor the words “transfer sperms or embryo into a womb”; and
- (d) inserting the following new paragraph immediately after paragraph (e)—

“(f) in the course of providing assisted reproductive treatment services for any woman, use the sperm of any man without the woman’s informed consent”.

NEW CLAUSES 19A, 19B, AND 19C

THAT, the Bill be amended by inserting the following new clauses immediately after clause 19—

Number of times
one can donate
gametes or
embryos or be a
surrogate.

19A. (1) A person shall not donate their gametes or embryos more than ten times.

(2) A person shall not perform a treatment procedure using gametes or an embryo produced by a donor if such procedure may result in more than ten children who are genetic siblings.

(3) A surrogate mother shall not enter into a surrogacy agreement more than three times in her lifetime and shall be required to wait for two years between each birth to be eligible for another surrogacy agreement.

Donation
gametes
embryos.

of
or
19B. (1) A cryo bank shall obtain—

(a) male gametes from males between twenty-one years of age and thirty-five years of age; or

(b) oocytes from females between twenty-three years of age and thirty-five years of age.

(2) An assisted reproductive clinic under this Act shall examine donors for diseases as may be prescribed by the Council.

Disposal
gametes.

of
19C. (1) The Council may, under such conditions as may be prescribed, permit—

(a) disposal of gametes after ten years of preservation;

(b) donation of gametes to other couples pursuing assistive reproductive technology; or

(c) the conduct of research on stem cells and zygotes that are not more than fourteen days old on a written application and where—

(i) the applicant undertakes to document the research for record purposes; and

(ii) prior consent is obtained from the donor of the stem cells or zygotes.

(2) A person who contravenes this provision is guilty of an offence and is liable on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

CLAUSE 20

THAT, Clause 20 of the Bill be amended by—

- (a) deleting the marginal note and substituting therefor the following new marginal note—

“Posthumous reproduction”

- (b) renumbering the existing clause as sub-clause (1);
- (c) deleting paragraph (b) of the renumbered sub-clause (1) and substituting therefor the following new paragraph (b) —

“(b) there was informed consent in writing by the man.”

- (d) inserting the following new sub-clause immediately after the renumbered sub-clause (1) —

“(2) Where the ovum of a woman or an embryo, the creation of which resulted from the ovum of that woman, was used after the death of that woman, that woman shall not be treated as the mother of the child born out of that ovum or embryo unless the —

- (a) father was married to the woman at the time of the death of the woman; and

- (b) woman had given informed consent in writing”.

CLAUSE 21

THAT, Clause 21 of the Bill be amended by—

- (a) by deleting the word “Directorate” appearing in sub-clause (2) and substituting therefor the word “Council”; and
- (b) in sub-clause (3) by inserting the following new sub paragraph immediately after sub paragraph (iv) —

“(v) the right of a child born through assisted reproductive technology to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not”.

CLAUSE 22

THAT, the Bill be amended by deleting Clause 22.

CLAUSE 23

THAT, Clause 23 of the Bill be amended—

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) The consent under subsection (1) shall make express provisions on—

- (a) the ownership of the gametes;

- (b) the number of gametes to be implanted; and
- (c) what should be done with the gametes in case of—
 - (i) the death of any of the parties seeking assisted reproductive technology services;
 - (ii) incapacity of any of the parties seeking assisted reproductive technology services;
 - (iii) abandonment of the gametes;
 - (iv) dispute;
 - (v) divorce; or
 - (vi) separation.”
- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause (3)—

“(3) The assisted reproductive technology clinics and assisted reproductive technology banks shall not cryo preserve any human gametes without specific instructions and consent in writing from all the parties seeking assisted reproductive technology in respect of what should be done with the gametes in case of the circumstances set out in subsection 2(c)”;
- (c) in sub-clause (4) by deleting the words “implanting the embryos or” and substituting therefor the words, “transfer of”.

NEW CLAUSE 24A

THAT, the Bill be amended by inserting the following new clause immediately after clause 24—

Pre-implantation
diagnosis or
testing.

24A. A donor shall undergo a pre-implantation diagnosis or testing for purposes of screening the human embryo or gamete for known, pre-existing, heritable or genetic diseases.

CLAUSE 25

THAT, the Bill be amended by deleting Clause 25.

CLAUSE 26

THAT, Clause 26 of the Bill be amended by—

- (a) deleting the words “sexual intercourse” appearing in sub-clause (1) and substituting therefor the words, “natural conception”;
- (b) deleting sub-clause (2);
- (c) deleting sub-clause (4); and
- (d) deleting sub-clause (5).

CLAUSE 27

THAT, Clause 27 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

“(1) A woman who—

- (a) has attained the age of twenty-five years;
- (b) is below the age of forty-five years;
- (c) has given birth at least to one child;
- (d) understands the rights and obligations accruing under a surrogacy agreement; and
- (e) has undergone comprehensive mental and physical health assessments may consent to a process of assisted reproduction for purposes of surrogate motherhood.”

(b) in sub-clause (2) by—

- (i) deleting the word “child “appearing immediately after the words “carry the” and substituting therefor the word, “foetus”; and
- (ii) deleting the words “parties to a marriage or couple” and substituting therefor the words “intended parents”.

(c) inserting the following new sub-clause (3) immediately after sub-clause (2)—

“(3) Where the surrogate mother or intended parents has no genetic connection with the child, the surrogate mother shall subject to a court order relinquish all parental rights and responsibilities at birth over the child to the intended parents”.

NEW CLAUSES 27A AND 27B

THAT, the Bill be amended by inserting the following new clauses immediately after clause 27—

Intended
parents.

27A. An intended parent may use assisted reproductive technology where the intended parent—

- (a) is a Kenyan;
- (b) has attained the age of twenty-five years; and
- (c) is below the age of fifty-five years.”

Leave related to
surrogacy.

27B. (1) A surrogate mother under this Act shall be entitled to three months lochia leave.

(2) An intended mother under this Act shall be entitled to three months maternity leave.

(3) An intended father under this Act shall be entitled to two weeks paternity leave.

CLAUSE 28

THAT, Clause 28 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Parties to a marriage or commissioning parents” and substituting therefor the words “Intended parents”;
- (b) in sub-clause (3) by inserting the following new paragraphs immediately after paragraph (g)—
 - “(h) where the surrogate appoints a next of kin and provides the identity information of the appointed next of kin;
 - (i) where the intending parents appoint a guardian and provides the identity information of the appointed guardian;”
- (c) in sub-clause (4), by deleting the word “form” and substituting therefor the word “surrogacy agreement”;
- (d) by deleting sub-clause (5) and substituting therefor the following new sub-clause (5)—
 - “(5) The Council shall carry out pre-approval checks and shall satisfy itself that the—
 - (a) surrogate and the intended parent or parents have undergone appropriate medical assessments including an assessment on the health of the surrogate, pre-implantation genetic testing or diagnosis;
 - (b) surrogate and the intended parent or parents have received appropriate counselling and legal advice about the implications of signing the surrogacy agreement and that a report by a counsellor reveals the positive welfare of a child who may be born as a result of an assisted reproduction procedure and the positive welfare of other children who may be affected by any such birth; and
 - (c) intended parents have taken out an appropriate insurance policy to cover the surrogate becoming ill, with protection under the policy starting no later than the day on which the first assisted reproduction procedure is to be carried out under the surrogacy agreement and ending five years after the surrogate has given birth.”
- (e) by inserting the following new sub-clause immediately after new sub-clause (5)—
 - “(6) A person may apply to the High Court for any necessary orders on matters relating to—
 - (a) the validity of a surrogacy agreement; or
 - (b) a dispute relating to parentage of a child born as a result of an assisted reproduction procedure.”
- (f) in sub-clause (7) by—
 - (i) deleting the word “parties to a marriage” and substituting therefor the words “intended parents”; and

(ii) deleting the words “in the process” and substituting therefor the words, “as a consequence”; and

(g) by inserting the following new sub-clauses immediately after sub-clause (7)—

“(8) A surrogacy agreement may indicate the terms of the agreement including terms prohibiting the surrogate from—

- (a) partaking alcohol;
- (b) smoking;
- (c) using unprescribed drugs; or
- (d) engaging in dangerous activity that may affect the health or life of a child conceived through assisted reproduction technology.

(9) The terms of the agreement under subsection (8) shall not be overly tasking or prejudicial to the surrogate.

(10) The Cabinet Secretary shall make regulations for the better carrying out of the provisions of subsection (8).”

NEW CLAUSES 28A AND 28B

THAT, the Bill be amended by inserting the following new clauses immediately after clause 28—

Surrogacy agreements
by third parties.

28A. (1) No person shall on a commercial basis engage in acts in Kenya or knowingly cause another person to engage in acts on a commercial basis including—

- (a) initiating or taking part in any negotiations with the intention of the making of a surrogacy arrangement;
- (b) offering or agreeing to negotiate the making of a surrogacy arrangement; or
- (c) compiling any information with the intent of using such information in making or negotiating the making of surrogacy arrangements.

(2) For the purposes of this section, a person engages in an act on commercial basis where—

- (a) any payment is at any time received by himself or another in respect of that act; or
- (b) the person engages in that act with the purpose of any payment being received by himself or another in respect of making, negotiating or facilitating the making of any surrogacy arrangement.

Commercialization of
surrogacy.

28B. (1) No person, organization, surrogacy clinic, laboratory or clinical establishment of any kind shall—

- (a) undertake commercial surrogacy, provide commercial surrogacy or its related component procedures or services in any form or run a racket or an organized group to empanel or select surrogate mothers or use individual brokers or intermediaries to arrange for surrogate mothers and for surrogacy procedures at such clinics, laboratories or at any other place;
- (b) issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated, any advertisement in any manner regarding commercial surrogacy by any means, scientific or otherwise;
- (c) abandon or disown or exploit or cause to be abandoned, disowned or exploited in any form, the child or children born through surrogacy;
- (d) exploit or cause to be exploited the surrogate mother or the child born through surrogacy in any manner whatsoever;
- (e) sell human embryo or gametes for the purpose of surrogacy and run an agency, a racket or an organization for selling, purchasing or trading in human embryos or gametes for the purpose of surrogacy;
- (f) import or assist in the importation in any manner of human embryos or human gametes for surrogacy or for surrogacy procedures; and
- (g) conduct education in commercial surrogacy.

(2) A person who contravenes subsection (1) commits an offence and shall on conviction be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

(3) For the purposes of this section, the term “advertisement” includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media, in electronic or print form.

(4) A registered medical practitioner, fertility expert, embryologist or a person who owns a fertility clinic or is employed by a fertility clinic, centre or laboratory and renders his or her professional or technical services to or at such a clinic or centre or laboratory including on honorary basis or

otherwise, and who contravenes any of the provisions of this section, commits an offence and shall on conviction, be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

CLAUSE 29

THAT, Clause 29 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words “this Act or any other written law” appearing in paragraph (a) and substituting therefor the words “the Constitution”; and
- (b) deleting the word “implantation” appearing in paragraph (b) and substituting therefor the word “transfer”; and
- (c) deleting the word “commissioning” appearing in paragraph (c) and substituting therefor the word “intended”.

CLAUSE 30

THAT, Clause 30 of the Bill be amended—

- (a) by deleting the words “The Commissioning parent or parents, under the surrogacy agreement shall” appearing in subclause (1) and substituting therefor the words “The intended parent or parents under the surrogacy agreement shall, where the child is genetically connected to them or subject to a court order”;

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

“(2) In the event of multiple pregnancies arising out of a surrogacy agreement or where a child born out of a surrogacy agreement has congenital abnormalities, all the children born out of the pregnancy shall be the children of the intended parent or intended parents and the rights and obligations for all parties shall vest as if the pregnancy had borne only one child or normal child.”

- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) Where a child is born out of a surrogacy arrangement and—

(a) where the creation of an embryo was brought about with a sperm and an egg of a couple, or where the couple or intended parent is genetically connected to the child, the couple or intended parent shall be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate; or

(b) where the creation of an embryo was brought about with the gametes other than the gamete of a couple or the intended parent or where the couple or intended parent is not genetically connected to the child, the couple or intended parent shall only be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate following a court order.”;

(d) in sub-clause (4) by deleting the words “Notwithstanding the provisions of section 28(7), the surrogate mother may claim from the commissioning parent or commissioning parents the following” and substituting therefor the words “The surrogate mother may claim from the intended parent or intended parents the following”;

(e) in sub-clause (5) by—

- (i) deleting the word “law” appearing immediately after the words “provisions of the law” in paragraph (a) and substituting therefor the word “Constitution”; and
- (ii) deleting the words “commission parent or commissioning parents” appearing in paragraph (b) and substituting therefor the words “intended parent or intended parents”; and
- (iii) inserting the following new paragraph immediately after paragraph (d)—
 “(e) be entitled to psychological support during and after the pregnancy, provided by the intended parent or intended parents”; and

(f) by inserting the following new sub-clauses immediately after sub-clause (7)—

“(8) The intending parent or couple shall not abandon a child born out of an assisted reproductive technology or surrogacy procedure.

(9) A person who contravenes subsection (8) commits an offence and shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both.”

CLAUSE 32

THAT, Clause 32 of the Bill be amended by—

- (a) deleting sub-clause (1); and
- (b) inserting the words “except in the case of transfer of own gametes and embryos for personal use” immediately after the word, “Kenya” in sub-clause (2).

NEW CLAUSE 32A

THAT, the Bill be amended by inserting the following new clause immediately after clause 32—

Prohibition
certain
publications.

on **32A.** (1) A person shall not publish, or cause to be published, an advertisement or notice to the effect that a person—

- (a) is or may be willing to enter into a surrogacy arrangement;
- (b) is seeking another person who is or may be willing to enter into a surrogacy arrangement, to act as a surrogate mother or to arrange a surrogacy arrangement;
- (c) is or may be willing to accept any benefit under a surrogacy arrangement for himself or herself;

- (d) is or may be willing to accept any benefit under a surrogacy arrangement for another person that is intended or likely to counsel or procure a person to agree to act as a surrogate.
- (2) A person who contravenes this section commits an offence and on conviction, shall be liable to pay a fine not exceeding five hundred thousand shillings or to imprisonment to a term not exceeding one year, or to both, and to a fine not exceeding ten million shillings in the case of a body corporate.

CLAUSE 33

THAT, Clause 33 of the Bill be amended —

- (a) in the opening sentence, by deleting the word “Directorate” and substituting therefor the word “Council”;
- (b) renumbering the clause as sub-clause (1);
- (c) inserting the following new paragraph immediately after paragraph (e)—
 - “(f) the destruction or disposal by a registered assisted reproductive technology provider of any gametes or an embryo formed outside the body of a woman.”;
 - and
- (d) inserting the following new sub-clauses immediately after the re-numbered sub-clause (1)—
 - “(2) The Council shall ensure that all information contained in the register is protected and maintained in a confidential manner in accordance with the relevant data protection and privacy laws.
 - (3) The Council shall maintain all records, charts, forms, reports, consent letters and agreements.
 - (4) All the documents under this Act shall be preserved for a period of twenty-five years or such longer period as may be prescribed:
 - provided that where any criminal or other proceedings are instituted against any surrogacy clinic, the records and all other documents of such clinic shall be preserved until the final disposal of such proceedings.
 - (5) All records under subsection (3) and (4) shall, at all reasonable times, be made available for inspection to the appropriate authority or to any other person authorized by the appropriate authority.”

CLAUSE 34

THAT, Clause 34 of the Bill be amended—

- (a) in sub-clause (1) by —
 - (i) deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and

- (ii) deleting the words “twenty-one” appearing in sub-clause (1) and substituting therefor the word “eighteen”;
- (b) in sub-clause (2) by deleting the word “Directorate” and substituting therefor the word “Council”; and
- (c) in sub-clause (3) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 35

THAT, Clause 35 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 36

THAT, Clause 36 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 37

THAT, Clause 37 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 38

THAT, Clause 38 of the Bill be amended by deleting the words “Directorate in consultation with the Medical Practitioners and Dentists Council” and substituting therefor the word “Council”.

CLAUSE 40

THAT, Clause 40 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 41

THAT, Clause 41 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 42

THAT, Clause 42 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
- (b) in sub-clause (2) by—
 - (i) inserting the word “authorized” immediately before the word “member” appearing in paragraph (b); and
 - (ii) deleting the words “unless authorized by the Directorate” appearing in paragraph (d).

CLAUSE 43

THAT, Clause 43 of the Bill be amended —

- (a) in the marginal note by inserting the words “and embryos” immediately before the word “gametes”;
- (b) by deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

(1) Every licence authorizing the storage of gametes shall have the condition that —

- (a) the gametes of a person shall be placed in storage only if received from that person or acquired from a person to whom a licence applies;
- (b) gametes which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (c) no gametes shall be kept in storage for longer than the statutory storage period;
- (d) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (e) there is provision for adequate safety and security for the stored gametes;
- (f) the storage tubes are labelled with a unique identifier;
- (g) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (h) there is maintenance of a movement register of storage and retrieval of stored gametes; and
- (i) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored gamete and the identity of the donor.”

- (c) by inserting the following new sub-clause immediately after the new sub-clause (1)—

(1A). Every licence authorizing the storage of embryos shall have the condition that —

- (a) the resultant embryo taken from a person shall be placed in storage only if received from that person or acquired from a person to whom a license applies;
- (b) an embryo the creation of which has been brought about by assisted reproductive technology than in pursuance of the license shall be placed in storage only if acquired from a person to whom the license applies;

- (c) embryos which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (d) an embryo which is created but is not transferred to the surrogate or intended mother for any reason shall be stored and shall be given priority in the succeeding application for assisted reproductive technology;
- (e) no embryos shall be kept in storage for longer than the statutory storage period;
- (f) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (g) there is provision for adequate safety and security for the stored embryos;
- (h) the storage tubes are labelled with a unique identifier;
- (i) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (j) there is maintenance of a movement register of storage and retrieval of stored embryos; and
- (k) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored embryo and the identity of the donor.”

(d) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) Where a donor or person wishing to store their gamete or embryo in a cryo bank through cryo-preservation, the cryo bank shall only store such gamete or embryo for as long as the owners of the gamete or embryo are alive or for a period not exceeding ten years, and at the end of this period the embryo or gamete shall be allowed to perish.”

CLAUSE 44

THAT, Clause 44 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 45

THAT, Clause 45 of the Bill be amended in sub-clause (2) by deleting the word “Directorate” appearing in paragraph (b) and substituting therefor the word “Council”.

CLAUSE 46

THAT, Clause 46 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
- (b) in sub-clause (1) by—
 - (i) deleting paragraph (d);
 - (ii) deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) that the person responsible has committed a professional malpractice or has been removed from office for contravening the provisions of the Constitution or any other written law”; and
 - (iii) inserting the words “or any other law and sentenced to imprisonment for a term exceeding six months” immediately after the word, “Act” appearing in paragraph (f).

CLAUSE 47

THAT, Clause 47 of the Bill be amended by deleting the word “Directorate” appearing in sub-clause (1) and substituting therefor the word “Council”.

CLAUSE 49

THAT, Clause 49 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 50

THAT, Clause 50 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words “knowingly or recklessly” appearing in sub-clause (1); and
- (b) inserting the following proviso immediately after paragraph (c)—

“and is liable on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both”.

NEW CLAUSE 51A

THAT, the Bill be amended by inserting the following new clause immediately after clause 51—

Transitional
provisions.

51A. (1) Every clinic or cryo bank which conducts assisted reproductive technology, partly or exclusively shall, within a period of sixty days from the date of establishment of the Committee, apply for licences provided that such clinics and cryo banks shall cease to conduct any assisted reproduction procedures on the expiry of six months from the date of commencement of this Act, unless such clinics and cryo banks have applied for registration.

(2) On receipt of the application under subsection (1), the Council shall, subject to the provisions of this Act and within a period of thirty days—

- (a) issue a certificate of registration and a registration number to the applicant; or
- (b) reject the application in writing with reasons for the rejection.

CLAUSE 52

THAT, Clause 52 of the Bill be amended —

- (a) by renumbering the existing clause as sub-clause (1);
- (b) inserting the following new sub-clause immediately after the renumbered sub-clause (1)—

“(2) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by Parliament.”
- (c) in paragraph (c) of the renumbered sub-clause (1) by deleting the words “planted in” and substituting therefor the words “transferred into”;
- (d) in paragraph (g) of the renumbered sub-clause (1) by inserting the word “informed” immediately after the words “giving of”;
- (e) in paragraph (h) of the renumbered sub-clause (1) by deleting the word “children” and substituting therefor the word “embryos”; and
- (f) by deleting paragraph (p) of the renumbered sub-clause (1).

SCHEDULE

THAT, the Bill be amended by inserting the following new Schedule —

(s. 5(2))

SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

Meetings.

1. (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The chairperson may call a special meeting of the Committee at any time the chairperson deems fit for expedient transaction of the business of the Committee.

(3) The notice for a meeting of the Committee shall be given in writing to each member of the Committee at least fourteen days before the day of the meeting.

(4) In the case of a special, or extra-ordinary meeting, a notice of less than fourteen days' notice shall be considered sufficient.

(5) Despite the provisions of subparagraph (2), the chairperson may, upon requisition in writing by at least two thirds of the members, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

(6) The notice to be given under subparagraph (2) and (3) shall state the—

- (a) venue and time of the meeting; and
- (b) agenda with sufficient details of business to be discussed at the meeting.

(7) The chairperson shall preside at every meeting of the Committee at which the chairperson is present but in the chairperson's absence, the members present shall elect from among themselves a chairperson who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(8) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by the concurrence of a majority of all the members present and voting at the meeting.

(9) The Committee may, with approval of the Cabinet Secretary, co-opt or invite any number of persons to act as advisors or consultants at any of its meetings or form such committees to perform such functions or duties of the Committee as the Committee shall determine.

(10) Subject to the provisions on quorum, no proceedings shall be invalid by reason only of a vacancy among the members of the Committee.

(11) Subject to the provisions of this Schedule, the Committee may determine its own procedure and the procedure for any committee of the Committee.

(12) The quorum for the meetings of the Committee shall be five members. Co-opted or invited persons shall not be counted in the quorum of the meetings of the Committee and shall not be eligible to vote.

Contracts and
instruments.

2. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Institute by any person generally or specially authorized by the Institute for that purpose.

Disclosure of
Interest.

3. (1) If a member of the Committee is present at a meeting of the Committee or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable before the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under paragraph (1) shall not, unless the Committee or committee otherwise directs, take part in any consideration or, discussion of, or vote on any question touching on the matter.

(3) A person who contravenes subparagraph (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months, or to both.

(4) No member of the Committee or officer, employee or agent of the Committee shall enter into a service contract or trade with the Committee.

(5) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

Minutes.

4. The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

2) Notice is given that the Homa Bay Town (Hon. Peter Kaluma) intends to move the following amendments to the Assisted Reproductive Technology Bill, 2022 at the Committee Stage—

LONG TITLE

THAT, the Long Title of the Bill be amended by deleting the words “to establish an Assisted Reproductive Technology Directorate”.

CLAUSE 2

THAT, Clause 2 of the Bill be amended —

- (a) by deleting the definition of the term “assisted reproductive technology” and substituting therefor the following new definition—

“assisted reproductive technology” means all techniques that attempt to obtain a pregnancy by handling the sperm or the oocyte outside the human body and transferring the gamete or the embryo into the reproductive system of a woman;

- (b) by deleting the definition of the term “child” and substituting therefor the following new definition—

“child” means an individual who has not attained the age of eighteen years;

- (c) by deleting the definition of the term “commissioning parents” and substituting therefor the following new definition—

“intended parent” means a woman or couple who enters into a surrogacy arrangement seeking assistance in procreation through the help of a surrogate mother or donor;

- (d) by deleting the definition of the term “couple” and substituting therefor the following new definition—

“couple” means a male and a female who are married or are cohabiting under the laws of Kenya;

- (e) by deleting the definition of the term “cryo-preservation” and substituting therefor the following new definition—

“cryo-preservation” means the assisted reproductive technology of freezing and storing of gametes, zygotes, embryos, ovarian and testicular tissues;

- (f) by deleting the definition of the term “Directorate” and substituting therefor the following new definition—

Cap.
253. “Council” means the Kenya Medical Practitioners and Dentists Council established under section 3 of the Medical Practitioners and Dentists Act;

- (g) by deleting the definition of the term “donation” and substituting therefor the following new definition—

“donation” means a process in assisted reproductive technology of voluntarily giving gametes for purposes of procreation;

- (h) by deleting the definition of the term “donor” and substituting therefor the following new definition—

“gamete donor” means a person who voluntarily gives his or her gametes for the purpose of fertilization in an assisted reproductive technology process;

- (i) by deleting the definition of the term “embryo” and substituting therefor the following new definition—

“embryo” means a cell or group of cells containing a diploid complement of chromosomes or group of such cells, not a gamete or gametes, that has the potential to develop into a live born human being if transferred into the body of a person under conditions in which gestation may be reasonably expected to occur;

- (j) in the definition of the term “embryologist” by inserting the words “the development, storage and transfer of embryos, and” immediately after the words “deals with”;

- (k) by deleting the definition of the term “embryology”;

- (l) in the definition of the term “endoscopic surgery” by deleting the words, “and passing a telescope with a video camera through the incision into the body cavity”;

- (m) by deleting the definition of the term “father” and substituting therefor the following new definition—

“father” means a male parent;

- (n) in the definition of the term “in-vitro fertilization” by deleting the words “an egg is fertilized by a sperm in a test-tube or elsewhere outside the body” and substituting therefor the words “fertilization takes place outside the body”;

- (o) by deleting the definition of the term “mother” and substituting therefor the following new definition—

“mother” means a female parent;

- (p) in the definition of the term “oocyte” by deleting the word “oocyte” and substituting therefor the word “egg”;

- (q) by deleting the definition of the term “parties to a marriage”;

- (r) in the definition of the term “pre-implantation genetic diagnosis” by deleting the words “and eliminating the same”;
- (w) in the definition of the term “pre-implantation screening” by deleting the words “to determine the number of chromosomes” and substituting therefor the words “to determine the viability or euploidy of an embryo before transferring to the woman’s womb”;
- (x) by deleting the definition of the term “primitive streak”;
- (y) in the definition of the term “procreation” by deleting the words “whether through an assisted reproduction technology process or through natural means” and substituting therefor the words “including through assisted reproductive technology”;
- (z) by deleting the definition of the term “sperm” and substituting therefor the following new definition—

“sperm” means the mature male human gamete;
- (aa) by deleting the definition of the term “surrogacy” and substituting therefor the following new definition—

“surrogacy” means a practice whereby a woman bears and gives birth to a child for an intended parent or couple;
- (bb) by deleting the definition of the term “surrogate mother” and substituting therefor the following new definition—

“surrogate mother” means a woman who has agreed to carry a pregnancy to term for another woman or couple”; and
- (cc) by inserting the following new definitions in the proper alphabetical sequence—

“abandoned child” means a child born out of a surrogacy procedure who has been deserted by his or her intending parents and the surrogate and declared as such by the court after due process;

“abandonment” means failure to continue to pay for cryopreservation storage of gametes or embryos;

“altruistic surrogacy” means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses or the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative;

“clinic” means a health facility licensed under this Act for the purpose of conducting assisted reproduction procedures;

“commercial surrogacy” means the commercialization of surrogacy services or procedures or its component services or component procedures including the selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or hiring, selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or monetary incentive in cash or in kind, to the surrogate mother or her dependents or her representative, except the medical expenses or the insurance coverage for the surrogate mother;

“cryo bank” means a facility for the collection and storage of gametes and embryos and the supply of gametes to the assisted reproductive technology clinics or their patients;

“female” means a human person who has had, will have or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces, transports and utilizes ova for fertilization and whose primary sex hormones are oestrogen and progesterone;

“foetus” means the developing human offspring after the embryonic stage prior to birth;

“gestational surrogacy” means the process where a woman who did not provide or donate an egg carries a pregnancy for the intended parents or couple;

“ovum” means a single cell released from either of the female reproductive organs that is capable of developing into a new organism when fertilized with a sperm cell;

“parent” has the meaning assigned to it under section 2 of the Children Act;

“pre-implantation genetic testing” means all techniques used to identify genetic defects and aneuploidy in embryos created through in-vitro fertilization before transfer;

“supervisor” means the person responsible for activities authorized under the licence issued under this Act;

“surrogacy agreement” means an agreement between a surrogate and an intended parent or couple that the surrogate is to undergo an assisted reproduction procedure for purposes of having a child born as a result of such a procedure for the intended parent or couple;

“woman” means an adult female person; and

“zygote” means a diploid cell resulting from the fusion of two haploid gametes.

CLAUSE 4

THAT, Clause 4 of the Bill be amended by deleting paragraphs (a), (b) and (c) and substituting therefor the following new paragraphs—

- (a) ensure provision of assisted reproductive technology services to Kenyan couples or women certified to be infertile or to have other medical conditions preventing natural conception;
- (b) permit altruistic surrogacy;
- (c) prohibit commercial surrogacy; and
- (d) make consequential provisions thereto.

PART II

THAT, the Bill be amended by deleting the heading of Part II and substituting therefor the following new heading—

“PART II- ASSISTED REPRODUCTIVE TECHNOLOGY COMMITTEE”.

CLAUSE 5

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

Assisted
Reproductive
Technology
Committee.

5. (1) The Council shall establish a Committee to be known as the Assisted Reproductive Technology Committee.
- (2) The Committee shall conduct its business and affairs in accordance with the provisions of the Schedule.

CLAUSE 6

THAT, Clause 6 of the Bill be amended in—

- (a) the opening sentence by deleting the word “Directorate” and substituting therefor the word “Council”;
- (b) paragraph (i), by deleting the words “in consultation with the Medical Practitioners and Dentist Council,”; and
- (c) paragraph (o), by deleting the word “Directorate” and substituting therefor the word “Council”.

CLAUSE 7

THAT, Clause 7 of the Bill be amended—

- (a) in paragraph (a), by deleting the words “and quality of cost-effective” and substituting therefor the words “of”;
- (b) by deleting paragraph (b) and substituting therefor the following new paragraph (b)—

- “(b) provide resources necessary to ensure access to the highest attainable standard of assisted reproductive technology services”;
- (c) by deleting paragraph (c); and
- (d) by deleting paragraph (d).

CLAUSE 8

THAT, Clause 8 of the Bill be amended by—

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

- “(a) put in place the necessary mechanisms and infrastructure to ensure access to the highest attainable standard of assisted reproductive technology services”;
- (b) deleting paragraph (b) and substituting therefor the following new paragraph (b)—

- “(b) provide resources necessary to ensure access to the highest attainable standard of assisted reproductive technology services”;
- (c) deleting paragraph (c);
- (d) deleting paragraph (d); and
- (e) deleting paragraph (e).

CLAUSE 9

THAT, the Bill be amended by deleting Clause 9.

CLAUSE 10

THAT, the Bill be amended by deleting Clause 10.

CLAUSE 12

THAT, Clause 12 of the Bill be amended in sub-clause (1) by deleting the words “written consent, in accordance with the prescribed Regulations, to its use for that purpose” and substituting therefor the words “written informed consent”.

CLAUSE 13

THAT, Clause 13 of the Bill be amended in—

- (a) the marginal note by inserting the word “informed” immediately before the word “consent”; and
- (b) sub-clause (1) by deleting the words “written consent, in a manner prescribed by Regulations, to its removal for that purpose” and substituting therefor the words “written informed consent”.

CLAUSE 14

THAT, the Bill be amended by deleting Clause 14 and substituting therefor the following new clause 14—

Circumstances
for undertaking
assisted
reproductive
technology.

14. A couple or woman qualifies to receive assisted reproductive technology services, where it is certified by an assisted reproductive technology expert, that the couple or woman is infertile or has other medical conditions preventing natural conception.

CLAUSE 15

THAT, Clause 15 of the Bill be amended in sub-clause (1) by deleting the word, “purely” appearing in paragraph (c).

CLAUSE 16

THAT, Clause 16 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b)—

“(c) a gamete or embryo other than that consented to by the woman;”

CLAUSE 17

THAT, Clause 17 of the Bill be amended by—

(a) deleting the word “minor” appearing in the marginal note and substituting therefor the words “a child”; and

(b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

“(1) A person shall not obtain a sperm or ovum from a child or use any sperm or ovum obtained from a child except for medical reasons and future human procreation by the child and with informed consent of the child, parent or legal guardian of the child.”

CLAUSE 18

THAT, Clause 18 of the Bill be amended by—

(a) deleting the marginal note and substituting the following new marginal note—

“Restrictions on the use of embryos”; and

(b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

“(1) A person shall not—

(a) keep or use an embryo other than a human embryo;

(b) place a human embryo in any animal;

(c) transfer an embryo in a woman other than a human embryo;

- (d) keep or use a human embryo in circumstances prohibited under this Act or as prescribed by regulations;
- (e) replace any part of a human embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such replacement is for purposes of solving a medical problem; or
- (f) undertake any form of human cloning.”

CLAUSE 19

THAT, Clause 19 of the Bill be amended in sub-clause (1) by—

- (a) inserting the word “informed” immediately after the words “without his” appearing in paragraph (b);
- (b) inserting the word “informed” immediately after the words “without her” appearing in paragraph (c);
- (c) deleting the words “place sperm and eggs or embryo in a woman” appearing in paragraph (e) and substituting therefor the words “transfer sperms or embryo into a womb”; and
- (d) inserting the following new paragraph immediately after paragraph (e)—

“(f) in the course of providing assisted reproductive treatment services for any woman, use the sperm of any man without the woman’s informed consent”.

NEW CLAUSES 19A, 19B, AND 19C

THAT, the Bill be amended by inserting the following new clauses immediately after clause 19—

Number of times
one can donate
gametes or
embryos or be a
surrogate.

19A. (1) A person shall not donate their gametes or embryos more than ten times.

(2) A person shall not perform a treatment procedure using gametes or an embryo produced by a donor if such procedure may result in more than ten children who are genetic siblings.

(3) A surrogate mother shall not enter into a surrogacy agreement more than three times in her lifetime and shall be required to wait for two years between each birth to be eligible for another surrogacy agreement.

Donation
gametes
of
or
embryos.

19B. (1) A cryo bank shall obtain—

- (a) male gametes from males between twenty-one years of age and thirty-five years of age; or

(b) oocytes from females between twenty-three years of age and thirty-five years of age.

(2) An assisted reproductive clinic under this Act shall examine donors for diseases as may be prescribed by the Council.

Disposal
gametes.

of **19C.** (1) The Council may, under such conditions as may be prescribed, permit—

- (a) disposal of gametes after ten years of preservation;
- (b) donation of gametes to other couples pursuing assistive reproductive technology; or
- (c) the conduct of research on stem cells and zygotes that are not more than fourteen days old on a written application and where—
 - (iii) the applicant undertakes to document the research for record purposes; and
 - (iv) prior consent is obtained from the donor of the stem cells or zygotes.

(2) A person who contravenes this provision is guilty of an offence and is liable on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

CLAUSE 20

THAT, Clause 20 of the Bill be amended by—

- (a) deleting the marginal note and substituting therefor the following new marginal note—

“Posthumous reproduction”

- (b) renumbering the existing clause as sub-clause (1);
- (c) deleting paragraph (b) of the renumbered sub-clause (1) and substituting therefor the following new paragraph (b) —

“(b) there was informed consent in writing by the man.”

- (d) inserting the following new sub-clause immediately after the renumbered sub-clause (1) —

“(2) Where the ovum of a woman or an embryo, the creation of which resulted from the ovum of that woman, was used after the death of that woman, that woman shall not be treated as the mother of the child born out of that ovum or embryo unless the —

- (a) father was married to the woman at the time of the death of the woman; and
- (b) woman had given informed consent in writing”.

CLAUSE 21

THAT, Clause 21 of the Bill be amended by—

- (a) by deleting the word “Directorate” appearing in sub-clause (2) and substituting therefor the word “Council”; and
- (b) in sub-clause (3) by inserting the following new sub paragraph immediately after sub paragraph (iv) —

“(v) the right of a child born through assisted reproductive technology to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not”.

CLAUSE 22

THAT, the Bill be amended by deleting Clause 22.

CLAUSE 23

THAT, Clause 23 of the Bill be amended—

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) The consent under subsection (1) shall make express provisions on—

- (d) the ownership of the gametes;
- (e) the number of gametes to be implanted; and
- (f) what should be done with the gametes in case of—
 - (vii) the death of any of the parties seeking assisted reproductive technology services;
 - (viii) incapacity of any of the parties seeking assisted reproductive technology services;
 - (ix) abandonment of the gametes;
 - (x) dispute;
 - (xi) divorce; or
 - (xii) separation.”

- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause (3)—

“(3) The assisted reproductive technology clinics and assisted reproductive technology banks shall not cryo preserve any human gametes without specific instructions and consent in writing from all the parties seeking assisted reproductive technology in respect of what should be done with the gametes in case of the circumstances set out in subsection 2(c)”; and

- (c) in sub-clause (4) by deleting the words “implanting the embryos or” and substituting therefor the words, “transfer of”.

NEW CLAUSE 24A

THAT, the Bill be amended by inserting the following new clause immediately after clause 24—

Pre-implantation
diagnosis or
testing.

24A. A donor shall undergo a pre-implantation diagnosis or testing for purposes of screening the human embryo or gamete for known, pre-existing, heritable or genetic diseases.

CLAUSE 25

THAT, the Bill be amended by deleting Clause 25.

CLAUSE 26

THAT, Clause 26 of the Bill be amended by—

- (a) deleting the words “sexual intercourse” appearing in sub-clause (1) and substituting therefor the words, “natural conception”;
- (b) deleting sub-clause (2);
- (c) deleting sub-clause (4); and
- (d) deleting sub-clause (5).

CLAUSE 27

THAT, Clause 27 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

“(1) A woman who—

- (a) has attained the age of twenty-five years;
- (b) is below the age of forty-five years;
- (c) has given birth at least to one child;
- (d) understands the rights and obligations accruing under a surrogacy agreement; and
- (e) has undergone comprehensive mental and physical health assessments

may consent to a process of assisted reproduction for purposes of surrogate motherhood.”

- (b) in sub-clause (2) by—

- (i) deleting the word “child” appearing immediately after the words “carry the” and substituting therefor the word, “foetus”; and
- (ii) deleting the words “parties to a marriage or couple” and substituting therefor the words “intended parents”.

- (c) inserting the following new sub-clause (3) immediately after sub-clause (2)—

“(3) Where the surrogate mother or intended parents has no genetic connection with the child, the surrogate mother shall subject to a court order relinquish all parental rights and responsibilities at birth over the child to the intended parents”.

NEW CLAUSES 27A AND 27B

THAT, the Bill be amended by inserting the following new clauses immediately after clause 27—

Intended parents. **27A.** An intended parent may use assisted reproductive technology where the intended parent—

- (a) is certified by an assisted reproductive technology expert to be infertile or to have other medical conditions preventing natural conception;
- (b) is a Kenyan;
- (c) has attained the age of twenty-five years; and
- (d) is below the age of fifty-five years.”

Leave related to surrogacy. **27B.** (1) A surrogate mother under this Act shall be entitled to three months lochia leave.

(2) An intended mother under this Act shall be entitled to three months maternity leave.

(3) An intended father under this Act shall be entitled to two weeks paternity leave.

CLAUSE 28

THAT, Clause 28 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Parties to a marriage or commissioning parents” and substituting therefor the words “Intended parents”;
- (b) in sub-clause (3) by inserting the following new paragraphs immediately after paragraph (g)—

“(h) where the surrogate appoints a next of kin and provides the identity information of the appointed next of kin;

(i) where the intending parents appoint a guardian and provides the identity information of the appointed guardian;”

- (c) in sub-clause (4), by deleting the word “form” and substituting therefor the word “surrogacy agreement”;

- (d) by deleting sub-clause (5) and substituting therefor the following new sub-clause (5)—

“(5) The Council shall carry out pre-approval checks and shall satisfy itself that the—

- (a) surrogate and the intended parent or parents have undergone appropriate medical assessments including an assessment on the health of the surrogate, pre-implantation genetic testing or diagnosis;

- (b) surrogate and the intended parent or parents have received appropriate counselling and legal advice about the implications of signing the surrogacy agreement and that a report by a counsellor reveals the positive welfare of a child who may be born as a result of an assisted reproduction procedure and the positive welfare of other children who may be affected by any such birth; and
 - (c) intended parents have taken out an appropriate insurance policy to cover the surrogate becoming ill, with protection under the policy starting no later than the day on which the first assisted reproduction procedure is to be carried out under the surrogacy agreement and ending five years after the surrogate has given birth.”
- (e) by inserting the following new sub-clause immediately after new sub-clause (5)—
 - “(6) A person may apply to the High Court for any necessary orders on matters relating to—
 - (a) the validity of a surrogacy agreement; or
 - (b) a dispute relating to parentage of a child born as a result of an assisted reproduction procedure.”
- (f) in sub-clause (7) by—
 - (i) deleting the word “parties to a marriage” and substituting therefor the words “intended parents”; and
 - (ii) deleting the words “in the process” and substituting therefor the words, “as a consequence”; and
- (g) by inserting the following new sub-clauses immediately after sub-clause (7)—
 - “(8) A surrogacy agreement may indicate the terms of the agreement including terms prohibiting the surrogate from—
 - (a) partaking alcohol;
 - (b) smoking;
 - (c) using unprescribed drugs; or
 - (d) engaging in dangerous activity that may affect the health or life of a child conceived through assisted reproduction technology.
 - (9) The terms of the agreement under subsection (8) shall not be overly tasking or prejudicial to the surrogate.
 - (10) The Cabinet Secretary shall make regulations for the better carrying out of the provisions of subsection (8).”

NEW CLAUSES 28A AND 28B

THAT, the Bill be amended by inserting the following new clauses immediately after clause 28—

Surrogacy agreements
by third parties.

28A. (1) No person shall on a commercial basis engage in acts in Kenya or knowingly cause another person to engage in acts on a commercial basis including—

- (a) initiating or taking part in any negotiations with the intention of the making of a surrogacy arrangement;
- (b) offering or agreeing to negotiate the making of a surrogacy arrangement; or
- (c) compiling any information with the intent of using such information in making or negotiating the making of surrogacy arrangements.

(2) For the purposes of this section, a person engages in an act on commercial basis where—

- (a) any payment is at any time received by himself or another in respect of that act; or
- (b) the person engages in that act with the purpose of any payment being received by himself or another in respect of making, negotiating or facilitating the making of any surrogacy arrangement.

Commercialization of
surrogacy.

28B. (1) No person, organization, surrogacy clinic, laboratory or clinical establishment of any kind shall—

- (a) undertake commercial surrogacy, provide commercial surrogacy or its related component procedures or services in any form or run a racket or an organized group to empanel or select surrogate mothers or use individual brokers or intermediaries to arrange for surrogate mothers and for surrogacy procedures at such clinics, laboratories or at any other place;
- (b) issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated, any advertisement in any manner regarding commercial surrogacy by any means, scientific or otherwise;
- (c) abandon or disown or exploit or cause to be abandoned, disowned or exploited in any form, the child or children born through surrogacy;
- (d) exploit or cause to be exploited the surrogate mother or the child born through surrogacy in any manner whatsoever;

- (e) sell human embryo or gametes for the purpose of surrogacy and run an agency, a racket or an organization for selling, purchasing or trading in human embryos or gametes for the purpose of surrogacy;
- (f) import or assist in the importation in any manner of human embryos or human gametes for surrogacy or for surrogacy procedures; and
- (g) conduct education in commercial surrogacy.

(2) A person who contravenes subsection (1) commits an offence and shall on conviction be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

(3) For the purposes of this section, the term “advertisement” includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media, in electronic or print form.

(4) A registered medical practitioner, fertility expert, embryologist or a person who owns a fertility clinic or is employed by a fertility clinic, centre or laboratory and renders his or her professional or technical services to or at such a clinic or centre or laboratory including on honorary basis or otherwise, and who contravenes any of the provisions of this section, commits an offence and shall on conviction, be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

CLAUSE 29

THAT, Clause 29 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words “this Act or any other written law” appearing in paragraph (a) and substituting therefor the words “the Constitution”; and
- (b) deleting the word “implantation” appearing in paragraph (b) and substituting therefor the word “transfer”; and
- (c) deleting the word “commissioning” appearing in paragraph (c) and substituting therefor the word “intended”.

CLAUSE 30

THAT, Clause 30 of the Bill be amended—

- (a) by deleting the words “The Commissioning parent or parents, under the surrogacy agreement shall” appearing in subclause (1) and substituting therefor the words “The intended parent or parents under the surrogacy

agreement shall, where the child is genetically connected to them or subject to a court order”;

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

“(2) In the event of multiple pregnancies arising out of a surrogacy agreement or where a child born out of a surrogacy agreement has congenital abnormalities, all the children born out of the pregnancy shall be the children of the intended parent or intended parents and the rights and obligations for all parties shall vest as if the pregnancy had borne only one child or normal child.”

- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) Where a child is born out of a surrogacy arrangement and—

(a) where the creation of an embryo was brought about with a sperm and an egg of a couple, or where the couple or intended parent is genetically connected to the child, the couple or intended parent shall be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate; or

(b) where the creation of an embryo was brought about with the gametes other than the gamete of a couple or the intended parent or where the couple or intended parent is not genetically connected to the child, the couple or intended parent shall only be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate following a court order.”;

- (d) in sub-clause (4) by deleting the words “Notwithstanding the provisions of section 28(7), the surrogate mother may claim from the commissioning parent or commissioning parents the following” and substituting therefor the words “The surrogate mother may claim from the intended parent or intended parents the following”; and

- (e) in sub-clause (5) by—

(iv) deleting the word “law” appearing immediately after the words “provisions of the law” in paragraph (a) and substituting therefor the word “Constitution”; and

(v) deleting the words “commission parent or commissioning parents” appearing in paragraph (b) and substituting therefor the words “intended parent or intended parents”; and

(vi) inserting the following new paragraph immediately after paragraph (d)—

“(e) be entitled to psychological support during and after the pregnancy, provided by the intended parent or intended parents”.

(f) by inserting the following new sub-clauses immediately after sub-clause (7)—

“(8) The intending parent or couple shall not abandon a child born out of an assisted reproductive technology or surrogacy procedure.

(9) A person who contravenes subsection (8) commits an offence and shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both.

(10) The Chief Justice may make rules of court directing the manner in which applications may be made and judicial proceedings undertaken under this section.”

NEW CLAUSE 30A

THAT, the Bill be amended by inserting the following new clause immediately after clause 30—

Surrogacy
proceedings to be
confidential.

30A. (1) A member or officer of a surrogacy clinic, and a person having any official duty under or being employed in the administration of this Act, shall regard and deal with all documents and information relating to the surrogacy or proposed surrogacy of any child, or to any such child, or to the intended parent of such child, as secret and confidential.

(2) A person in possession or control over any documents or records referred to in subsection (1), and who at any time communicates such information or anything therein contained, or makes any comments to any third person other than—

(a) the Court, the Council, the Cabinet Secretary, any other member or officer of the surrogacy clinic; or

(b) an advocate representing the applicant or the guardian *ad litem* appointed under this section, otherwise than for the purposes of this Act,

commits an offence and is liable, on conviction, to imprisonment for a term not exceeding two years, or to a fine not exceeding two hundred thousand shillings, or to both.

(3) Without prejudice to subsection (2), nothing contained in this section shall apply to the communication of any document or information in good faith in the interest of the child to whom the records relate or of the intended parent of the child.

(4) An officer or member of a surrogacy clinic, and a person engaged in any official duty as a servant or agent of any agency or institution charged with the administration of this section, shall not be required to produce before any Court any documents referred to in this section, or to divulge or communicate to any Court any information relating thereto, except as may be necessary for the purpose of—

(a) carrying into effect the provisions of this section; or

(b) assisting in the course of a prosecution of any person for any offence under this section.

(5) The Cabinet Secretary may, by order in writing, exempt any person by name or office from the provisions of subsection (2).

CLAUSE 32

THAT, Clause 32 of the Bill be amended by—

(a) deleting sub-clause (1); and

(b) inserting the words “except in the case of transfer of own gametes and embryos for personal use” immediately after the word, “Kenya” in sub-clause (2).

NEW CLAUSE 32A

THAT, the Bill be amended by inserting the following new clause immediately after clause 32—

Prohibition
certain
publications.

on **32A.** (1) A person shall not publish, or cause to be published, an advertisement or notice to the effect that a person—

(a) is or may be willing to enter into a surrogacy arrangement;

(b) is seeking another person who is or may be willing to enter into a surrogacy arrangement, to act as a surrogate mother or to arrange a surrogacy arrangement;

(c) is or may be willing to accept any benefit under a surrogacy arrangement for himself or herself;

(d) is or may be willing to accept any benefit under a surrogacy arrangement for another person that is intended or likely to counsel or procure a person to agree to act as a surrogate.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to pay a fine not exceeding five hundred thousand shillings or to imprisonment to a term not exceeding one year, or to both, and to a fine not exceeding ten million shillings in the case of a body corporate.

CLAUSE 33

THAT, Clause 33 of the Bill be amended —

- (a) in the opening sentence, by deleting the word “Directorate” and substituting therefor the word “Council”;
- (b) renumbering the clause as sub-clause (1);
- (c) inserting the following new paragraph immediately after paragraph (e)—

“(f) the destruction or disposal by a registered assisted reproductive technology provider of any gametes or an embryo formed outside the body of a woman.”;

and
- (d) inserting the following new sub-clauses immediately after the re-numbered sub-clause (1)—

“(2) The Council shall ensure that all information contained in the register is protected and maintained in a confidential manner in accordance with the relevant data protection and privacy laws.

(3) The Council shall maintain all records, charts, forms, reports, consent letters and agreements.

(4) All the documents under this Act shall be preserved for a period of twenty-five years or such longer period as may be prescribed:

provided that where any criminal or other proceedings are instituted against any surrogacy clinic, the records and all other documents of such clinic shall be preserved until the final disposal of such proceedings.

(5) All records under subsection (3) and (4) shall, at all reasonable times, be made available for inspection to the appropriate authority or to any other person authorized by the appropriate authority.”

CLAUSE 34

THAT, Clause 34 of the Bill be amended—

- (a) in sub-clause (1) by —
 - (iii) deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
 - (iv) deleting the words “twenty-one” appearing in sub-clause (1) and substituting therefor the word “eighteen”;
- (b) in sub-clause (2) by deleting the word “Directorate” and substituting therefor the word “Council”; and
- (c) in sub-clause (3) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 35

THAT, Clause 35 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 36

THAT, Clause 36 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 37

THAT, Clause 37 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 38

THAT, Clause 38 of the Bill be amended by deleting the words “Directorate in consultation with the Medical Practitioners and Dentists Council” and substituting therefor the word “Council”.

CLAUSE 40

THAT, Clause 40 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 41

THAT, Clause 41 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 42

THAT, Clause 42 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
- (b) in sub-clause (2) by—
 - (iii) inserting the word “authorized” immediately before the word “member” appearing in paragraph (b); and
 - (iv) deleting the words “unless authorized by the Directorate” appearing in paragraph (d).

CLAUSE 43

THAT, Clause 43 of the Bill be amended —

- (a) in the marginal note by inserting the words “and embryos” immediately before the word “gametes”;
- (b) by deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—
 - (1) Every licence authorizing the storage of gametes shall have the condition that —

- (a) the gametes of a person shall be placed in storage only if received from that person or acquired from a person to whom a licence applies;
- (b) gametes which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (c) no gametes shall be kept in storage for longer than the statutory storage period;
- (d) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (e) there is provision for adequate safety and security for the stored gametes;
- (f) the storage tubes are labelled with a unique identifier;
- (g) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (h) there is maintenance of a movement register of storage and retrieval of stored gametes; and
- (i) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored gamete and the identity of the donor.”

(c) by inserting the following new sub-clause immediately after the new sub-clause (1)—

(1A). Every licence authorizing the storage of embryos shall have the condition that —

- (a) the resultant embryo taken from a person shall be placed in storage only if received from that person or acquired from a person to whom a license applies;
- (b) an embryo the creation of which has been brought about by assisted reproductive technology than in pursuance of the license shall be placed in storage only if acquired from a person to whom the license applies;
- (c) embryos which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (d) an embryo which is created but is not transferred to the surrogate or intended mother for any reason shall be stored and shall be given priority in the succeeding application for assisted reproductive technology;
- (e) no embryos shall be kept in storage for longer than the statutory storage period;

- (f) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (g) there is provision for adequate safety and security for the stored embryos;
- (h) the storage tubes are labelled with a unique identifier;
- (i) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (j) there is maintenance of a movement register of storage and retrieval of stored embryos; and
- (k) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored embryo and the identity of the donor.”

(d) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) Where a donor or person wishing to store their gamete or embryo in a cryo bank through cryo-preservation, the cryo bank shall only store such gamete or embryo for as long as the owners of the gamete or embryo are alive or for a period not exceeding ten years, and at the end of this period the embryo or gamete shall be allowed to perish.”

CLAUSE 44

THAT, Clause 44 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 45

THAT, Clause 45 of the Bill be amended in sub-clause (2) by deleting the word “Directorate” appearing in paragraph (b) and substituting therefor the word “Council”.

CLAUSE 46

THAT, Clause 46 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
- (b) in sub-clause (1) by—
 - (iv) deleting paragraph (d);
 - (v) deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) that the person responsible has committed a professional malpractice or has been removed from office for contravening the provisions of the Constitution or any other written law”; and

- (vi) inserting the words “or any other law and sentenced to imprisonment for a term exceeding six months” immediately after the word, “Act” appearing in paragraph (f).

CLAUSE 47

THAT, Clause 47 of the Bill be amended by deleting the word “Directorate” appearing in sub-clause (1) and substituting therefor the word “Council”.

CLAUSE 49

THAT, Clause 49 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

CLAUSE 50

THAT, Clause 50 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words “knowingly or recklessly” appearing in sub-clause (1); and
- (b) inserting the following proviso immediately after paragraph (c)—
“and is liable on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both”.

NEW CLAUSE 51A

THAT, the Bill be amended by inserting the following new clause immediately after clause 51—

Transitional
provisions.

51A. (1) Every clinic or cryo bank which conducts assisted reproductive technology, partly or exclusively shall, within a period of sixty days from the date of establishment of the Committee, apply for licences provided that such clinics and cryo banks shall cease to conduct any assisted reproduction procedures on the expiry of six months from the date of commencement of this Act, unless such clinics and cryo banks have applied for registration.

(2) On receipt of the application under subsection (1), the Council shall, subject to the provisions of this Act and within a period of thirty days—

- (a) issue a certificate of registration and a registration number to the applicant; or
- (b) reject the application in writing with reasons for the rejection.

CLAUSE 52

THAT, Clause 52 of the Bill be amended —

- (a) by renumbering the existing clause as sub-clause (1);

(b) by inserting the following new sub-clause immediately after the renumbered sub-clause (1)—

“(2) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by Parliament.”; and

(c) in the renumbered sub-clause (1), by—

- (i) deleting paragraph (a);
- (ii) deleting paragraph (b);
- (iii) deleting paragraph (c);
- (iv) deleting paragraph (d);
- (v) deleting paragraph (f);
- (vi) deleting paragraph (g);
- (vii) deleting paragraph (h); and
- (viii) deleting paragraph (p).

SCHEDULE

THAT, the Bill be amended by inserting the following new Schedule —

(s. 5(2))

SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

Meetings.

1. (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The chairperson may call a special meeting of the Committee at any time the chairperson deems fit for expedient transaction of the business of the Committee.

(3) The notice for a meeting of the Committee shall be given in writing to each member of the Committee at least fourteen days before the day of the meeting.

(4) In the case of a special, or extra-ordinary meeting, a notice of less than fourteen days' notice shall be considered sufficient.

(5) Despite the provisions of subparagraph (2), the chairperson may, upon requisition in writing by at least two thirds of the members, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

(6) The notice to be given under subparagraph (2) and (3) shall state the—

- (a) venue and time of the meeting; and
- (b) agenda with sufficient details of business to be discussed at the meeting.

(7) The chairperson shall preside at every meeting of the Committee at which the chairperson is present but in the chairperson's absence, the members present shall elect from among themselves a chairperson who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(8) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by the concurrence of a majority of all the members present and voting at the meeting.

(9) The Committee may, with approval of the Cabinet Secretary, co-opt or invite any number of persons to act as advisors or consultants at any of its meetings or form such committees to perform such functions or duties of the Committee as the Committee shall determine.

(10) Subject to the provisions on quorum, no proceedings shall be invalid by reason only of a vacancy among the members of the Committee.

(11) Subject to the provisions of this Schedule, the Committee may determine its own procedure and the procedure for any committee of the Committee.

(12) The quorum for the meetings of the Committee shall be five members. Co-opted or invited persons shall not be counted in the quorum of the meetings of the Committee and shall not be eligible to vote.

Contracts and
instruments.

- 2.** Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Institute by any person generally or specially authorized by the Institute for that purpose.

Disclosure of
Interest.

- 3.** (1) If a member of the Committee is present at a meeting of the Committee or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable before the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under paragraph (1) shall not, unless the Committee or committee otherwise directs, take part in any consideration or, discussion of, or vote on any question touching on the matter.

(3) A person who contravenes subparagraph (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months, or to both.

(4) No member of the Committee or officer, employee or agent of the Committee shall enter into a service contract or trade with the Committee.

(5) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

Minutes.

4. The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

LIMITATION OF DEBATE

The House resolved on Thursday, February 13, 2025 as follows-

Limitation of Debate on Motions

- II. THAT**, each speech in a debate on any **Motion, including a Special motion** be limited in the following manner: A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each, and that ten (10) minutes before the expiry of the time, the Mover be called upon to reply; and that priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.

Limitation of Debate on Individual Members' Bills

- III. THAT**, each speech in a debate on **Bills NOT sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** be limited as follows: A maximum of three hours and thirty minutes, with not more than thirty (30) minutes for the Mover, in moving and ten (10) minutes in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen minutes (15) each; and that priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.
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NOTICE PAPER

Tentative business for

Wednesday (Afternoon), November 5, 2025

(Published pursuant to Standing Order 38(1))

It is notified that the following business is tentatively scheduled to appear in the Order Paper for Wednesday (Afternoon), November 5, 2025—

A. MOTION— CONSIDERATION OF TEN (10) REGULATIONS RELATING TO THE PETROLEUM SECTOR

(The Chairperson, Committee on Delegated Legislation)

(Question to be put)

B. MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON ITS CONSIDERATION OF THE PYRETHRUM (REPEAL) BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2024)

(The Leader of the Majority Party)

(Question to be put and Third Reading)

C. THE MATERNAL NEWBORN AND CHILD HEALTH BILL (SENATE BILL NO. 17 OF 2023)

(The Chairperson, Departmental Committee on Health)

Second Reading

(Question to be put)

D. SPECIAL MOTION - CONSIDERATION OF NOMINEE FOR APPOINTMENT AS A MEMBER OF THE SALARIES AND REMUNERATION COMMISSION

(The Chairperson, Departmental Committee on Labour)

E. MOTION – FOURTH REPORT ON THE IMPLEMENTATION STATUS OF THE REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION ON ITS CONSIDERATION OF PUBLIC PROCUREMENT REGULATORY AUTHORITY CIRCULAR NO. 04/2025

(The Chairperson, Committee on Implementation)

F. THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023)

(The Hon. Brighton Yegon, M.P. – *Co-Sponsor*)

Second Reading

(Resumption of debate interrupted on Tuesday, November 4, 2025)

(Balance of time – 2 hours)

G. THE GOVERNMENT OWNED ENTERPRISES BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2025)

(The Leader of the Majority Party)

Second Reading

H. THE CAPITAL MARKETS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 30 OF 2025)

(The Leader of the Majority Party)

Second Reading

I. MOTION– CONSIDERATION OF SESSIONAL PAPER NO. 5 OF 2024 ON THE NATIONAL GREEN FISCAL INCENTIVES POLICY FRAMEWORK

(The Chairperson, Departmental Committee on Environment, Forestry and Mining)

J. MOTION– CONSIDERATION OF THE PRIVILEGES AND IMMUNITIES (THE GLOBAL CENTRE FOR ADAPTATION) ORDER, 2025

(The Chairperson, Departmental Committee on Environment, Forestry and Mining)

K. MOTION– CONSIDERATION OF COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE REPUBLIC OF KENYA AND THE UNITED ARAB EMIRATES

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

(Subject to Tabling of Committee Report and Notice of Motion)

L. MOTION– FIRST REPORT ON THE STATUS OF IMPLEMENTATION OF THE CONSTITUTION BY THREE COMMISSIONS

(The Chairperson, Constitutional Implementation Oversight Committee)

M. MOTION– REPORT ON THE AUDITED ACCOUNTS FOR THE JUDICIARY MORTGAGE SCHEME FUND FOR THE FINANCIAL YEARS 2011/2012 TO 2021/2022

(The Chairperson, Special Funds Accounts Committee)

N. MOTION– REPORT ON THE AUDITED ACCOUNTS FOR THE COMMODITIES FUND FOR THE FINANCIAL YEARS 2018/2019 TO 2021/2022

(The Chairperson, Special Funds Accounts Committee)

- O. MOTION– CONSIDERATION OF SESSIONAL PAPER NO. 5 OF 2023 ON THE NATIONAL POLICY ON LABOUR MIGRATION
(The Chairperson, Departmental Committee on Labour)
- P. MOTION– REPORT ON THE AUDITED ACCOUNTS FOR THE STORES AND SERVICES FUND FOR THE FINANCIAL YEARS 2020/2021 & 2021/2022 & THE OCCUPATIONAL SAFETY AND HEALTH FUND FOR THE FINANCIAL YEARS 2020/2021 & 2021/2022
(The Chairperson, Special Funds Accounts Committee)
- Q. MOTION– REPORT ON THE AUDITED ACCOUNTS FOR THE THE LAND SETTLEMENT FUND FOR THE FINANCIAL YEARS 2020/2021 & 2021/2022 AND THE RAILWAY DEVELOPMENT FUND (HOLDING ACCOUNT) FOR THE FINANCIAL YEARS 2017/2018 TO 2021/2022
(The Chairperson, Special Funds Accounts Committee)
- R. THE PROVISIONAL COLLECTION OF TAXES AND DUTIES (REPEAL) BILL (NATIONAL ASSEMBLY BILL NO. 18 OF 2025)
(The Leader of the Majority Party)

Second Reading

APPENDIX

NOTICE OF PETITIONS, QUESTIONS & STATEMENTS

ORDER NO. 4 – PETITIONS

It is **notified** that, pursuant to the provisions of Standing Order 225, the following Petition will be presented—

No.	Subject	Petitioner	Relevant Committee
14/2025	Recognition and protection of the Traditional and Cultural Rights of the Kiwayu Island Community	<i>To be reported by the Hon. (Capt.) Ruweida Obo on behalf of the residents of Kiwayu Island, Kiunga Ward in Lamu East Constituency</i>	Public Petitions

ORDER NO. 7 - STATEMENTS

It is **notified** that, pursuant to the provisions of Standing Order 44(2)(c), the following Statements will be **requested**—

No.	Subject	Member	Relevant Committee
1.	Rising cases of insecurity in Terik ward in Aldai Constituency	<i>Hon. Marianne Kitany, MP (Aldai)</i>	Administration and Internal Security
2.	Delay in completion of the last mile connectivity programme in Nyaribari Masaba Constituency	<i>Hon. (Arch.) Daniel Manduku, MP (Nyaribari Masaba)</i>	Energy
3.	Demolition of stores by the Postal Corporation of Kenya in Kiambu Town	<i>Hon. Machua Waitbaka, MP (Kiambu)</i>	Lands
