



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (THIRD SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**TUESDAY, AUGUST 25, 2015 AT 2.30 P.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. Statements

**8\*. THE EXCISE DUTY BILL (NATIONAL ASSEMBLY BILL NO. 28 OF 2015)**  
(The Leader of the Majority Party)

Second Reading  
(*Question to be put*)

**9\*. SPECIAL MOTION – EXTENSION OF PERIOD IN RESPECT OF LEGISLATION WITH CONSTITUTIONAL TIMELINE OF AUGUST 27, 2015**  
(The Chairperson, Constitutional Implementation Oversight Committee)

**THAT**, Pursuant to the provisions of Article 261(2) of the Constitution, this House **resolves** to extend the period prescribed for enactment of legislation necessary to give effect to:-

- (a) **Article 11(3)(a)** (*compensation or royalties for the use of cultures and cultural heritage*);
- (b) **Article 11(3)(b)** (*recognition and protection of indigenous seeds and plant varieties, their genetic and diverse characteristics and use by the communities of Kenya*);
- (c) **Article 63** (*community land*);
- (d) **Article 66** (*regulation of land use and property*);
- (e) **Article 67(2)(e)** (*investigation and adjudication of claims arising out of historical land injustices*);
- (f) **Article 68(c)(i)** (*minimum and maximum land holding acreage*);
- (g) **Article 71** (*agreements relating to sharing of natural resources*);
- (h) **Article 81(b)** (*two-thirds gender principle*);
- (i) **Article 100** (*representation of marginalized groups*);
- (j) **Article 164(1)(b)** (*organization and administration of the Court of Appeal*);
- (k) **Article 165(1)(b)** (*organization and administration of the High Court*);
- (l) **Article 169(1)** (*Subordinate Courts*);

- (m) **Article 173 (5)** (*regulation of the Judiciary Fund*);
- (n) **Section 17 of the Sixth Schedule of the Constitution** (*restructuring of the provincial administration*); and,
- (o) any other legislation required under the Constitution to be enacted by Parliament within five years,

by a period of **twelve (12) months** from August 27, 2015.

*(The Speaker has certified this Special Motion as meeting the threshold contemplated under Article 261(3)(b) of the Constitution)*

*(Resumption of debate adjourned on Wednesday, August 19, 2015 - Afternoon Sitting)*

**10\* . THE CONSTITUTION OF KENYA (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 01 OF 2015)**

(The Hon. David O. Ochieng, M.P.)

Second Reading  
*(Question to be put)*

**11\* . THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 02 OF 2015)**

(The Hon. George Kaluma)

Second Reading  
*(Question to be put)*

**12\* . COMMITTEE OF THE WHOLE HOUSE**

- (i) The Fisheries Management and Development Bill (National Assembly Bill No. 20 of 2014)  
(The Leader of the Majority Party)
- (ii) The Business Registration Service Bill (National Assembly Bill No.13 of 2015)  
(The Leader of the Majority Party)
- (iii) The Special Economic Zones Bill (National Assembly Bill No. 6 of 2015)  
(The Leader of the Majority Party)
- (iv) The Prohibition of Anti-Personnel Mines Bill (National Assembly Bill No. 7 of 2014)  
(The Leader of the Majority Party)

**13\* . MOTION - ADOPTION OF SESSIONAL PAPER NO. 5 OF 2014**

(The Chairperson, Departmental Committee on National Security and Administration)

**THAT**, this House adopts Sessional Paper No. 5 of 2014 on National Policy for Peace Building and Conflict Management, laid on the Table of the House on Thursday, July 31, 2014.

*(Resumption of debate interrupted on Thursday, August 20, 2015 - Morning Sitting)  
(Balance of time – 26 mins)*

**14\* . MOTION - THE REPORT ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA**

(The Chairperson, Departmental Committee on Agriculture, Livestock and Co- operatives)

**THAT**, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on the Crisis Facing the Sugar Industry in Kenya, laid on the Table of the House on Thursday, 12<sup>th</sup> March, 2015.

**15\* . THE POLITICAL PARTIES (AMENDMENT) BILL (SENATE BILL NO.3 OF 2014)**

(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

**16\* . THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (SENATE BILL NO. 6 OF 2014)**

(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

**17\* . MOTION - THE REPORT ON EAST AFRICAN COMMUNITY (EAC) PEACE AND SECURITY PROTOCOL, AND THE MUTUAL PEACE AND SECURITY PACT**

(The Chairperson, Committee on Regional Integration)

**THAT**, this House adopts the Report of the Committee on Regional Integration on East African Community (EAC) Peace and Security Protocol and the Mutual Peace and Security Pact, laid on the Table of the House on Wednesday, 29<sup>th</sup> April, 2015 and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, **approves** the East African Community (EAC) Peace and Security Protocol and the Mutual Peace and Security Pact.

**18\* . MOTION - THE REPORT ON THE RESETTLEMENT OF SQUATTERS IN MURI; MATHENGETA TUMUTUMU, RIAKANAU; DRAKE & KASEKU FARMS**

(The Chairperson, Departmental Committee on Lands)

**THAT**, this House adopts the Report of the Departmental Committee on Lands on the Resettlement of Squatters in Muri Farm; Mathengeta Tumutumumu/Riakanau Farm; and Drake Farm and Kaseku Farm, laid on the Table of the House on Thursday, 12<sup>th</sup> June, 2014.

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**\* Denotes Orders of the Day**

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# NOTICES

## I. THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2014)

1. **Notice is given that Chairperson of the Departmental Committee on Agriculture, Livestock and Fisheries, intends to move the following amendments to the Fisheries Management and Development Bill, 2014 at the Committee Stage—**

### **LONG TITLE**

**THAT** the long title of the Bill be amended by inserting the words “to enhance the livelihood of communities dependent on fishing” immediately after the words “aquatic resources”.

### **CLAUSE 1**

**THAT** the Bill be amended by deleting Clause 1 and substituting therefor the following new clause—

“1.This Act may be cited as the Fisheries Management and Development Act, 2015, and shall come into force on the fourteenth day after publication in the Gazette”

### **CLAUSE 2**

**THAT** clause 2 of the Bill be amended—

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

“aircraft” means any propelled or remotely controlled airborne device capable of sustained movement through the atmosphere and includes helicopters and monitoring devices.”

- (b) in the definition of the term “artisanal fishing vessel” by deleting the expression “25 horsepower” and substituting therefor the expression “40 horsepower”;

- (c) in the definition of the term “aquaculture establishment” by inserting the word “ system” immediately after the words “or other”;

- (d) by inserting the following new definition in the proper alphabetical sequence—

“barter” means trade of fish and fish products by two or more persons with or without use of money;

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

“buy” includes—

- (i) barter;
- (ii) purchase;
- (iii) attempt to barter;
- (iv) attempt to purchase;

- (v) receive on account or consignment in consideration for value;
  - (vi) receive in order to send, forward or deliver for sale;
  - (vii) broker a sale;
  - (viii) purchase or barter for future goods or for any consideration of value; and
  - (ix) purchase or barter as an agent for another person"
- (f) by deleting the definition of the term "buyer" and substituting therefor the following new definition  
"buyer" means any person who buys;
- (g) in the definition of the term "export" by—
- (i) deleting paragraph (b);
  - (ii) deleting paragraph (c); and
  - (iii) in paragraph (d) by deleting the words "for the purpose of (a) or (b), when associated with any buying or selling of fish or fish products" and substituting therefor the words "out of the country".
- (h) in the definition of the term "export facility" by deleting the word "food" and substituting therefor the words "fish and fish products";
- (i) in the definition of the term "fish processing" by inserting the words "drying, chilling, salting, gutting, smoking," immediately after the word "freezing";
- (j) in the definition of the term "fishery" by inserting the words "existing in a delineated area" immediately after the words "or parts thereof" appearing in paragraph (a);
- (k) by inserting the following new definition in its proper alphabetic sequence—  
"fish landing station" means a point on the shore of any waters or coastline of which the Director-General has by notice in the gazette designated as a point to land fish";
- (l) by inserting the following new definition in proper alphabetical sequence—  
"illegal fishing" includes—
- (a) activity conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of its laws and regulations;
  - (b) activities conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which those states are bound, or relevant provisions of international law; and
  - (c) activities carried out in violation of national laws or international obligations, including those undertaken by co-operating states to a relevant regional fisheries management organization."

- (m) in the definition of the term “international agreement” by inserting the words “that Kenya is a party to pursuant to the Treaty Making and Ratification Act, 2013” immediately after the word “arrangements”;
- (n) in the definition of the term “master” by—
- (i) inserting the word “means” immediately after the words “in relation to a vessel, aircraft or vehicle”;
  - (ii) deleting the words “in relation to a vessel, aircraft or vessel the”.
- (o) by inserting the following new definition in proper alphabetical sequence—
- “management” means an integrated process of information gathering, analysis, planning, consultation, decision making, allocation of resources, formulation and implementation of rules and regulation which govern fisheries activities in order to ensure the continued production of the resources and accomplishment of other fisheries objectives;
- (p) by deleting the definition of the term “operator” and substituting therefor the following new definition—
- “operator” means any person responsible for the operations of, directs or controls a vessel, including the owner, charterer and master of the vessel;
- (q) by deleting the definition of the term “sell” and substituting therefor the following new definition—
- “sell” includes—
- (a) any method of disposition for consideration, of anything which has value or which can be exchanged for cash or barter;
  - (b) disposition to an agent for sale on consignment;
  - (c) offering or attempting to dispose of for value or receiving or having in possession for disposal for value or displaying for disposal for value, or sending or delivering for disposal for value, or causing or permitting to be disposed for value, offered or displayed for disposal for value; and
  - (d) disposition by way of raffle, lottery or other game of chance under the Betting Control and Licensing Act, 2012.
- (r) by deleting the definition of the term “semi-industrial fishing vessel” and substituting therefor the following new definition—
- “semi-industrial fishing vessel” includes—
- (a) a decked fishing vessel with an overall length of not less than ten meters and not more than twenty meters, less than fifty GRT and powered by an inboard engine; and
  - (b) an undecked fishing vessel with an overall length of not less than ten meters and not more than twenty meters, less than fifty GRT and powered by engines of at least forty horsepower.

- (s) by deleting the definition of the term “support vessel” and substituting therefor the following new definition—
- “support vessel” means a vessel carrying out operations in connection with and support of a fishing vessel including transport or supply;
- (t) by deleting the repeated set of definitions of the terms “subsistence fishing”, “support vessel”, and “surveillance”
- (u) by inserting the following new definition in the proper alphabetical sequence—
- “unregulated fishing includes—
- (a) activities conducted by vessels without nationality, or by those flying the flag of a state not party to that organization, or by a fishing identity in a manner that is not in consistent with the conservation and management measures; and
- (b) activities carried in areas or fish stocks in relation to which there are no applicable conservation or management measures in where the fishing activity is conducted.”
- (v) by inserting the following new definition in the proper alphabetical sequence—
- “unreported fishing includes activities which the relevant authority has not been notified ;”

### **CLAUSE 3**

**THAT**, Clause 3 of the Bill be amended by deleting sub-clause (2).

### **CLAUSE 5**

**THAT**, clause 5 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security” immediately after the words “sustainable development”;
- (b) in sub-clause (2) by—
- (i) inserting the word “and” immediately after the words “allocation of” in paragraph (b);
- (ii) inserting the word “and” immediately after the word “biodiversity” in paragraph (e);
- (iii) deleting the words “general the” appearing in paragraph (g) and substituting therefor the words “the general”
- (iv) inserting the words “replenishing natural habitats through diversification from capture fisheries” immediately after the words “food security” in paragraph (m);
- (v) deleting paragraph (p) and substituting therefor the following new paragraph—
- “(p) effective implementation of international agreements and relevant international laws in conformity with the Treaty Making and Ratification Act, 2013”;

- (vi) deleting the word “arrangements” appearing in paragraph (q);
- (vii) inserting the following new paragraph immediately after paragraph (q)—  
     “(r) ensuring that the livelihood of fishers is enhanced”.
- (c) in sub-clause (2) by
  - (i) renumbering the existing sub-clause (2) as sub-clause (3); and
  - (ii) deleting the words “sub paragraph (1)(a)” and substituting therefor the words “ sub paragraph (2)(a)”

**CLAUSE 6**

**THAT**, clause 6 of the Bill be amended—

- (a) in sub-clause (1) by—
  - (i) deleting the words “the Cabinet Secretaries responsible for” appearing immediately after the words “consist of”
  - (ii) deleting paragraphs “(a), (b), (c), (d), (e), (f) (g), (h), (i) ,(j), (k), (l), (m), (n) and (o) and substituting with the following new paragraphs—
    - (a)the Cabinet Secretary responsible for fisheries;
    - (b) the Cabinet Secretary responsible for interior and coordination of national government;
    - (c)the Cabinet Secretary responsible for transport and infrastructure;
    - (d) the Cabinet Secretary responsible for national treasury;
    - (e)the Cabinet Secretary responsible for foreign affairs and international trade;
    - (f) a representative from a university or a research institution with expertise in fisheries and who shall be nominated by the university Council;
    - (g)a representative from the consumer federation nominated by the national consumers federation;
    - (h) a designate from the Council of Governors with expertise in fisheries who shall be nominated by the Council of Governors; and
    - (i) a representative of fishers nominated by a national umbrella body of fishers.”
- (b) in sub-clause (2) by—
  - (i) inserting the word ‘national” immediately after the word “government”.
  - (ii) deleting the word “of” appearing in paragraph (b) and substituting thereforthe word “and”;
- (c) by inserting the following new sub-clauses immediately after sub-clause (2)—  
     “(2A) The Chairperson of the Council shall be appointed by the President from persons nominated under clause 6 (2) not being a Cabinet Secretary, upon recommendation by the Cabinet Secretary responsible for fisheries;”



“(2B) The Vice Chairperson of the Council shall be elected by members of the Council at their first sitting, provided that the Chair and the Vice Chairperson shall not be of the same gender;”

“(2C) in making appointments of the members to the Council, the Cabinet Secretary shall observe regional, gender, age, disability and ethnic balance;”

(d) in sub-clause (3) by inserting the word “to” immediately after the words “relevant”

## **CLAUSE 9**

**THAT**, clause 9 of the Bill be amended by—

- (a) inserting the words “development of standards on” immediately after the words “conservation” in paragraph (a);
- (b) deleting the word “implement” appearing in paragraph (b) and substituting therefor the words “monitor the implementation of”;
- (c) deleting the word “manage” appearing in paragraph (c) and substituting therefor the words “develop standards for the management of”;
- (d) deleting the words “prepare and implement” appearing in paragraph (d) and substituting therefor the words “develop guidelines for the preparation of”;
- (e) in paragraph (e)—
  - (i) by deleting the words “and extension services” appearing after the word “education”
  - (ii) by deleting the words “and relevant policies” appearing immediately after the words “sustainable use”.
- (f) deleting the words “collaborate in and,” appearing in paragraph (g) and substituting therefor the words “either alone or in collaboration with other institutions nationally or internationally”
- (g) deleting the words “for fisheries conservation, management, development and aquaculture production” appearing in paragraph (i);
- (h) inserting the words “subject to the Treaty Making and Ratification Act, 2013” immediately before the words “act on behalf” appearing in paragraph (k);
- (i) inserting the words “pursuant to the Treaty Making and Ratification Act, 2013” immediately after the words “Cabinet Secretary” appearing in paragraph (l);
- (j) inserting the words “and the Constitution” immediately after the words “this Act” appearing in paragraph (n);
- (k) inserting the words “that relates to its mandate under this Act and the Constitution” immediately after the words “infrastructure” appearing in paragraph (o);
- (l) inserting the words “and County governments” immediately after the word “ departments” appearing in paragraph (p);

- (m) inserting the words "County governments" immediately after the words "agencies" appearing in paragraph (q);
- (n) inserting the words "in collaboration with County governments and the Fish Marketing Authority established under section 201" at the beginning of paragraph (s); and
- (o) inserting the word "aquaculture" immediately after the words "coastal fisheries" appearing in paragraph (u).

#### **CLAUSE 10**

**THAT**, clause 10 of the Bill be amended—

(a) in sub-clause (1)—

- (i) by inserting the word "standards" appearing in paragraph (b) immediately after the word "management";
- (ii) by deleting the words "to the Cabinet" appearing in paragraph (f) and substituting therefor the word "to Parliament";
- (iii) by deleting the words "approve a" appearing in paragraph (g) and substituting therefor the words "establish an open, competitive,";
- (iv) by inserting the words "open, competitive" immediately after the word "transparent" in paragraph (h);

(b) in sub-clause (3)—

- (i) by deleting paragraph (b) and substituting therefor following new paragraph—  
" (b) comply with the provisions of this Act";
- (ii) paragraph (d) by inserting the words "and other government entities" immediately after the words "Director-General";

#### **CLAUSE 11**

**THAT**, clause 11 of the Bill be amended—

(a) in sub-clause (1) by—

- (i) deleting sub paragraph(iv),the repeated paragraph (vi) and(v) of paragraph (b);
- (ii) deleting paragraph (c);
- (iii) deleting the words "competitively recruited" appearing in paragraph (d)and substituting with the words "openly appointed" ;
- (iv) deleting paragraph (e) .

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

"(3) The members of the Board shall at their first meeting after appointment, elect a deputy Chairperson from amongst their number provided that the Chairperson and the deputy Chairperson shall not be of the same gender.";

(c) in sub-clause (4) by

- (i) deleting the expression “or (e)” appearing immediately after the expression “(1) (d)”;
- (ii) inserting the words “age, regional and ethnic balance” immediately after the word “parity.”

(d) in sub-clause (5) by—

- (i) deleting the expression “or (e)” appearing immediately after the expression “(1) (d)”;
- (ii) deleting the word “oceanography” appearing in paragraph (e) and substituting therefor the words “aquatic science”.

## **CLAUSE 12**

**THAT**, clause 12 of the Bill be amended—

(a) in sub-clause (1)—

- (i) by deleting paragraph (b);
- (ii) by deleting the words “ the permission of” appearing in paragraph (c ) (i) and substituting therefor the words “notifying the”;
- (iii) by deleting sub-paragraph (v) of paragraph (c), and substituting therefor the following new sub-paragraph—  
“(v) is unable, by reason of mental or physical infirmity to discharge functions as a member of the Board”.

(b) in sub-clause (2) by deleting the word “Minister” appearing in paragraph (a) and substituting therefor the words “Cabinet Secretary”.

## **CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended—

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

“(1) A member of the Board shall declare his or her interest in any matter falling within the functions of the Board in which the member of the Board knows or ought to have reasonably known that an interest exists, as described in subsection (5);

(b) by deleting sub-clause (2);

(c) in sub-clause 5 by deleting the word “or” appearing in sub-paragraph (iii) of paragraph (a);

(d) in sub-clause (6) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) “family member” shall mean a parent, brother, sister, spouse, cousin, aunt, uncle, nephew, niece or child, including a person who is adopted legally or for whom care was given by the member such that there exists a relationship in the nature of parent and child, and shall also mean a spouse of any person referred to in this definition and their children, and any other member of a person’s immediate family;”

**CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended by—

(a) deleting the word “six” appearing in paragraph (a) of sub-clause (3) and substituting therefor the word “five”;

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

“(5) The Board may, in its discretion at any of its meetings—

(a) invite a person or persons to attend; or

(b) receive or hear submissions or information from any person.”

(c) deleting sub-clause (7) and substituting therefor the following new sub-clause 7—

“(7) The Board may from time to time, establish such advisory sub-committees as it considers necessary in relation to its functions and powers for the purpose of making reports and recommendations to the Board and such sub-committees shall be comprised of Board members.”

(d) deleting sub-clause (8) and substituting therefor the following new sub-clause 8—

“(8) Any decision of a sub-committee established by the Board under subsection (7) shall be subject to ratification by a fully constituted Board meeting.”

**CLAUSE 15**

**THAT**, clause 15 of the Bill be amended—

(a) by inserting the words “openly and transparently, and” immediately after the words “Board” in sub-clause (1);

(b) in sub-clause (2) by—

(i) deleting the word “development ” appearing immediately after the word “environmental management ” in paragraph (a);

(ii) deleting the word “oceanography ” appearing in paragraph (c) and substituting therefor the word “aquatic science”;

(iii) deleting the words “area which the Board is satisfied is relevant to the position” appearing in paragraph (d) and substituting therefor the words “related field”; and

(iv) deleting the words “fifteen years” appearing in the proviso and substituting therefor the words “ten years”.

**CLAUSE 16**

**THAT**, Clause 16 of the Bill be amended by—

(a) deleting paragraph (d) in sub-clause (2) and substituting therefor the following new paragraph—

“(d) collaborate with the Fish Marketing Authority established under section 204 and other agencies to identify marketing and investments opportunities for the fisheries sector;”

- (b) deleting the words “or other person in the service of the Service” appearing in sub-clause (3)

### **CLAUSE 18**

**THAT** Clause 18 of the Bill be amended in sub-clause (1) by deleting the words “armed force” and substituting therefor the words “Defence Forces”

### **CLAUSE 20**

**THAT**, clause 20 of the Bill be amended—

- (a) in sub-clause (2) (a) by —
- (i) deleting the word “and” appearing immediately after the word “including”
  - (ii) deleting the word “of” appearing immediately after the word “enforcement”
- (b) in sub-clause (2) (b) by —
- (i) deleting the words “as appropriate” at the beginning of the paragraph; and
  - (ii) inserting the words “subject to the Treaty Making and Ratification Act, 2013” immediately after the word “directs”.

### **CLAUSE 21**

**THAT** Clause 21 of the Bill be amended in sub-clause (2) by—

- (a) deleting the word “Second” and substituting therefor the word “First”;
- (b) inserting the word “Secretary” immediately after the word “Cabinet”

### **CLAUSE 22**

**THAT**, clause 22 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “provided” and substituting therefor the word “appropriated”.
- (b) in sub-clause (2) by—
- (i) deleting paragraph (c) and substituting therefor the following new paragraph—  
“(c) contracts for technical consultants, observers, researchers and other personnel, activities or operations which support the functions and programmes of the Service;
  - (ii) by deleting the words “of the Director General and staff and members of the Board and Cabinet Secretary in accordance with the budget and approved rates approved by the Board” appearing in paragraph (d)

(c) by deleting sub-clause (4); and

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

“(5) The Service may open and maintain an account with a bank approved by the National Treasury under the Public Finance and Management Act 2012 and shall at all times maintain one account and shall pay all its moneys into such account.”

#### **CLAUSE 24**

**THAT**, clause 24 of the Bill be amended in sub-clause (3) by deleting the words “or in pursuance of the Board’s approval given with prior written approval of the Cabinet Secretary to the Treasury”

#### **CLAUSE 25**

**THAT**, clause 25 sub-clause (2) of the Bill be amended by deleting the expression “2003” and substituting therefor the expression “2015”.

#### **CLAUSE 26**

**THAT**, Clause 26 of the Bill be amended in sub-clause (4) by inserting the word “Secretary” after the word “Cabinet”.

#### **CLAUSE 27**

**THAT**, Clause 27 of the Bill be amended in sub-clause (3) by deleting the word “facilitate” and substituting therefor the words “provide supplementary funding for”.

#### **CLAUSE 28**

**THAT**, Clause 28 of the Bill be amended by—

(a) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) The trust shall be administered by a five member Board of Trustees nominated through an open and competitive process and they shall meet requirements of Chapter six of the Constitution.”;

(b) inserting the following new sub-clause immediately after sub-clause (4)—

“(5) The Members of the Board of Trustees shall include—

(i) two fisherpersons from fresh waters and marine waters;

(ii) two persons nominated by the traders exporters association and fish processors;

(iii) one person appointed by the Cabinet Secretary responsible for fishing with background in aquatic science.

#### **CLAUSE 29**

**THAT**, clause 29 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Nothing in this Act shall be deemed to prevent any member of the community from using, subject to such conditions as may be prescribed under this Act, such fisheries or fisheries resources as it has been the custom of that community to use.”

**CLAUSE 30**

**THAT**, clause 30 of the Bill be amended by—

- (a) inserting the words “County governments” immediately after the words “in consultation with”; at the opening clause;
- (b) inserting the following new paragraph immediately after paragraph (g)—  
“(gg) promote the development of other sustainable methods of *insitu* and *exsitu* fishing;”

**CLAUSE 32**

**THAT**, clause 32 of the Bill be amended in sub-clause (1) by deleting the words “the Director-General shall” appearing immediately after the expression “section 31(1)”.

**CLAUSE 37**

**THAT**, the Bill be amended by deleting clause 37.

**CLAUSE 38**

**THAT**, clause 38 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (e)—

- “(ea) the protection of vulnerable groups, especially youth and women;”
- “(eb) processes necessary to ensure that not more than two thirds of the Beach Management Units are of the same gender and to ensure the inclusion of youth and persons with disability in the leadership.”

**CLAUSE 40**

**THAT**, clause 40 of the Bill be amended—

- (a) in sub-clause (1) by inserting the word “special” immediately after the word “requires” appearing in paragraph (b);
- (b) in sub-clause (3) by deleting the opening paragraph and substituting therefor the following new opening paragraph—  
“The Director-General shall, in consultation with the counties and other stakeholders, develop guidelines and standards for the development of fisheries management plans that must conform to this Act and shall include—”
- (c) in sub-clause (3) by inserting the following new paragraph immediately after paragraph (m)—  
“(mm) social impact assessment of the plan with reference to disadvantaged groups including women, persons with disability and the youth”;
- (d) by deleting sub-clause (9) and substituting therefor the following new sub-clause—  
“(9) Any person who fails to comply with the management plan commits an offence and shall be liable—
  - (i) in case of industrial fishing, to a fine not exceeding five hundred thousand shillings; or

- (ii) in case of artisanal fishing, to a fine not exceeding one hundred thousand shillings."
- (e) in sub-clause (10) by deleting the words "not exceeding six months, and in respect of all other activities not exceeding two years or both" and substituting therefor the words "not exceeding three months, and in respect of all other activities not exceeding six months or both".

**CLAUSE 41**

**THAT**, clause 41 of the Bill be amended—

- (a) in sub-clause (1)—
  - (i) by inserting the words "in accordance with the best scientific advice and such other relevant information as may be available" immediately after the words "The Director General may";
  - (ii) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) closed seasons and or areas for species of fish or methods of fishing provided that customary fishing rights are protected”;
  - (iii) in paragraph (d) by inserting the words "provided that customary fishing rights are protected" immediately after the words "engage in fishing";
  - (iv) by deleting paragraph (i) and substituting therefor the following new paragraph—

“(i) regulate trade in endangered species of fish and fish products”;
  - (v) by inserting the following new paragraph immediately after paragraph (j)—

“(jj) prohibit the possession, trade in or manufacture of prohibited gear in a specified area or areas”;
- (b) by deleting sub-clause (2);
- (c) in sub-clause (3) by inserting the words "in respect of industrial fishing, and to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding three months or to both in respect of artisanal fishing" at the end of the sentence; and
- (d) by inserting the following new sub-clause immediately after sub-clause (3)—

“(4) The measures referred to in this section may include, inter alia—

  - (i) refusal to issue or renew licences;
  - (ii) imposition of special licence or catch fees; and
  - (iii) preferential licensing.”

**CLAUSE 42**

**THAT**, clause 42 of the Bill be amended—

- (a) by deleting sub-clause (2);
- (b) by deleting sub-clause (3).



**CLAUSE 43**

**THAT**, the Bill be amended by deleting clause 43.

**CLAUSE 44**

**THAT**, clause 44 of the Bill be amended—

(a) in sub-clause (l)—

(i) by deleting paragraph (l) and substituting therefor the following new paragraph—

“(l) firearms or other electrical shock devices for the purpose of fishing, including stunning, disabling or killing fish, or in any way rendering fish to be caught more easily”;

(ii) in paragraph (m) by deleting the words “in a fisheries management plan” and substituting therefor the words “by regulations established under this part”;

(b) in sub-clause (7) by inserting the following new words after the words “or to both”—

“in respect of industrial fishing, and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both in respect of artisanal fishing”; and

(c) by deleting sub-clause (8).

**CLAUSE 45**

**THAT**, clause 45 of the Bill be amended—

(a) in sub clause (1) by deleting the opening paragraph and substituting therefor the following new opening paragraph—

“(1) No person shall while using a vessel, wilfully and negligently damage, destroy, interfere with, endanger or cause injury in respect of in sub-clause (1)”;

(b) in sub clause (3)—

(i) by deleting paragraph (a);

(ii) by deleting paragraph (d) in sub-clause (3) and substituting therefor the following new paragraph—

“(d) make a full report of the incident and steps taken to the police”

(c) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) A person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year or to both, and in addition that person shall fully compensate the owner of the fishing gear for any damage or injury caused under civil law as a consequence of the action unless there is sufficient proof that the damage, destruction, interference or endangerment took place in an area where the person or vessel that caused such consequences were legally entitled to be at that time and it was not reasonably possible to detect the fishing gear or vessel and any relevant fishing gear was not marked in accordance with the requirements pursuant to this Act.”;

(d) by inserting the following new sub clause immediately after sub-clause (4)–

“(4A) Where human life is lost as a consequence of any negligent or wilful action under sub-section (1), the responsible person shall be liable on conviction to a fine not exceeding one million shillings or imprisonment for a term not exceeding ten years or to both, and in addition that person shall fully compensate the estate of the deceased under civil law.”;

(e) in sub-clause (5) by deleting the words “as soon as possible and in any case within a reasonable time after the damage, destruction, interference or endangerment took place, and shall produce all available evidence” and substituting therefor the words “within a period of three years”.

#### **CLAUSE 46**

**THAT**, the Bill be amended by deleting clause 46.

#### **CLAUSE 47**

**THAT**, clause 47 of the Bill be amended in sub-clause (2) by inserting the words “in respect of industrial fishing or to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months in respect of artisanal fishing” immediately after the words “or to both”.

#### **CLAUSE 48**

**THAT**, clause 48 of the Bill be amended by—

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

“(3) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or to a term of imprisonment not exceeding three years or to both in respect of industrial fishing, or to a fine not exceeding fifty thousand shillings or a term of imprisonment not exceeding six months, or to both.”;

(b) inserting the following new sub-clause immediately after sub-clause (3)–

“(3A) where a species of fish has been declared as endangered under subsection (1), the Cabinet Secretary shall take special measures for its protection.”

#### **CLAUSE 50**

**THAT**, clause 50 of the Bill be amended—

(a) in subsection (1) by

(i) inserting the words “stakeholders” immediately after the words “Advisory Council” in the opening paragraph—

(ii) deleting paragraph (k);

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

“(2) The Cabinet Secretary may, subject to approval by the National Assembly, make regulations to give effect to this subsection”;

(c) by deleting sub-clause (3)

### **CLAUSE 51**

**THAT**, clause 51 of the Bill be amended by—

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

“(1) Any person or Government Ministry or other agency that plans to conduct any commercial activity other than fishing which is likely to have an adverse impact on fish and their habitat, shall apply to the Director-General in the prescribed form prior to the commencement of the planned activity with a view to ensuring the conservation and protection of such resources.”;

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

“(2) Where an application is made under subsection (1), the Director-General shall refer the matter to the National Environment Management Authority who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat, and possible means of preventing or minimizing adverse impact.”;

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

“(3A) Any report made under sub-section (2) must be completed within six months of the making of the application.”;

(d) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) Any person who violates any provisions of this section 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 three years or to both, and in addition such person shall be liable to pay compensation in respect of any resulting loss or damage as well as the full cost of restoring the affected habitat to its previous state.”

### **CLAUSE 52**

**THAT**, clause 52 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “or accidentally”;

(b) in sub-clause (2) by deleting the words “five hundred thousand shillings or to a term of imprisonment not exceeding five years” and substituting therefor the words “five million shillings or to a term of imprisonment not exceeding ten years or to both.”

### **CLAUSE 53**

**THAT**, clause 53 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2)—“(2A) No person other than a sport fisherman shall land any fish at any point except at a fish landing station or port.

(2B) A person who contravenes the provisions of subsection (3) commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both in the case of fish landing stations, or to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or to both in the case of ports."

#### **CLAUSE 56**

**THAT**, clause 56 of the Bill be amended—

- (a) in sub-clause (2) by inserting the words "or to areas where the boundaries are disputed or not clear" immediately after the word "flag" appearing at the end of the sub-clause;
- (b) in sub-clause (3) by inserting the following new words immediately after the words "or both" —

"in relation to industrial fishing, and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both in relation to artisanal fishing."

#### **CLAUSE 57**

**THAT**, clause 57 of the Bill be amended in sub clause (1) by inserting the following new words immediately after the word "prescribed" —

"and the approval shall only be given upon production of an Environmental Impact Assessment report on the effect of each introduction."

#### **CLAUSE 58**

**THAT**, clause 58 of the Bill be amended in sub-clause (1) by deleting the words "such procedures as the Director-General may notify to the public or as may be prescribed" and substituting therefor the word "regulations".

#### **CLAUSE 60**

**THAT**, clause 60 of the Bill be amended by inserting the words "in consultation with the Fish Marketing Authority and" after the word "may" appearing in the opening paragraph.

#### **CLAUSE 61**

**THAT**, clause 61 of the Bill be amended—

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

"(2) The Cabinet Secretary shall establish a technical committee on Fish Quality and Safety"

- (b) in sub-clause (3) by—

- (i) by deleting the words "competent authority" appearing in the opening sentence and substituting therefor the word "Committee";
- (ii) deleting paragraph (a);
- (iii) deleting paragraph (e);

(iv) deleting paragraph (k);

(v) inserting the following new paragraph after paragraph (l)–

“(m) maintain a register of fishers”

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

“(4) The Cabinet Secretary may for the purposes of subsection (2), make regulations with regard to conduct of the affairs of the technical committee”

### **CLAUSE 62**

**THAT**, clause 62 of the Bill be amended by inserting the words “Pursuant to the Treaty Making and Ratification Act” immediately before the words “The Director-General may”.

### **CLAUSE 63**

**THAT**, clause 63 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) A person who knowingly and wilfully contravenes subsection (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 ten years or to both, and in addition any fish or fish products involved in the transaction and those owned or controlled by such person shall be forfeited.”

### **CLAUSE 65**

**THAT**, clause 65 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Any aquaculture development plan developed under sub-section (1) shall be for a duration of three years”;

### **CLAUSE 67**

**THAT**, clause 67 of the Bill be amended in sub-clause (1) by inserting the words “and without first consulting the affected community” at the end of the sub-clause.

### **CLAUSE 68**

**THAT**, clause 68 of the Bill be amended—

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

“(1) County governments shall monitor aquaculture and mariculture practices and operations in areas under their respective jurisdiction pursuant to this Act.”

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

“(2) Where any person or any county government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions,

such county government shall, in consultation with the Cabinet Secretary, give notice in writing to the owner of the relevant waters requiring the destruction of all fish or fish products in the said waters or the taking of such other measures as the county government may specify in the notice.”;

(c) by deleting sub-clause (3);

(d) in sub-clause (5) deleting the words “Director-General’s”; and

(e) by inserting the following new sub-clause immediately after sub-clause (5)–

“(5A) Where an officer wilfully, negligently or without justifiable cause issues a notice under sub-section (2), the officer shall be held personally liable for any resultant loss.”

### **CLAUSE 69**

**THAT**, clause 69 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “with the endorsement” and substituting therefor the words “on the advice”;

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

“(2) Permission for any activity in sub-section (1) may be granted subject to such conditions as the Director-General, with the written approval of the Board, considers appropriate and after an impact assessment has been undertaken.”

### **CLAUSE 80**

**THAT**, Clause 80 of the Bill be amended in sub-clause (3) by deleting the words “five hundred thousand” and substituting therefor the words “one million”.

### **CLAUSE 81**

**THAT**, Clause 81 of the Bill be amended in sub-clause (1)—

(a) by inserting the word “Kenya” immediately after the words “harvested in the” appearing in the opening paragraph;

(b) inserting the word “Kenya” before the word “fishery” appearing in paragraph (a).

### **CLAUSE 83**

**THAT**, Clause 83 of the Bill be amended—

(a) by deleting the word “Minister” wherever it appears and substituting therefor the word “Secretary”

(b) in sub-clause (8) by deleting the words “three hundred and fifty thousand” and substituting therefor the words “one million”

### **CLAUSE 87**

**THAT**, Clause 87 of the Bill be amended in sub-clause (2) by deleting the word “Kenyan” and substituting therefor the word “Kenya”.

**CLAUSE 88**

**THAT**, Clause 88 of the Bill be amended in sub-clause (1) by inserting the words “but shall require to apply for registration” immediately after the word “licence”

**CLAUSE 97**

**THAT**, Clause 97 of the Bill be amended in paragraph (a) of sub-clause (1) by inserting the words “or relevant applicable law of a third country” immediately after the word “measures”

**CLAUSE 101**

**THAT**, Clause 101 of the Bill be amended in sub-clause (2) by —

- (a) deleting the words “one million” and substituting therefor the words “fifty million”.
- (b) deleting the word “three years” and substituting therefor the words “five years”.

**CLAUSE 102**

**THAT**, Clause 102 of the Bill be amended in sub-clause (2) by—

- (a) deleting the words “one million” and substituting therefor the words “fifty million”.
- (b) deleting the word “three years” and substituting therefor the words “five years”.

**CLAUSE 105**

**THAT**, Clause 105 of the Bill be amended in sub-clause (2) by deleting the words “five hundred thousand” and substituting therefor the words “five million”.

**CLAUSE 110**

**THAT**, Clause 110 of the Bill be amended in sub-clause (8) by deleting the words “one million” and substituting therefor the words “fifty million”.

**CLAUSE 114**

**THAT**, Clause 114 of the Bill be amended in sub-clause (2) by deleting the words “five hundred thousand” and substituting therefor the words “ten million”.

**CLAUSE 116**

**THAT**, Clause 116 of the Bill be amended in sub-clause (1) by deleting the words “ten years” and substituting therefor the words “one year”.

**CLAUSE 128**

**THAT**, Clause 128 of the Bill be amended by deleting the words “two million shillings” and substituting therefor the words “fifty million shillings or to an imprisonment of a term of more than one year or to both”.

**CLAUSE 129**

**THAT**, Clause 129 of the Bill be amended in sub-clause (2) by—

- (a) deleting the words “not exceeding one million” and substituting therefor the words “not less than five million”;
- (b) deleting the words “not exceeding five years” and substituting therefor the words “not less than five years”.

**CLAUSE 130**

**THAT**, Clause 130 of the Bill be amended in sub-clause (2) by—

- (a) deleting the words “not exceeding one million” and substituting therefor the words “not less than ten million”;
- (b) deleting the words “not exceeding five years” and substituting therefor the words “not less than ten years”.

**CLAUSE 131**

**THAT**, Clause 131 of the Bill be amended in sub-clause (1) by deleting the words “Oceans and”.

**CLAUSE 132**

**THAT**, Clause 132 of the Bill be amended by—

- (a) inserting the word “fishing” immediately after the word “unregulated” in paragraph (e);
- (b) deleting the word “section 139” and substituting therefor the words “section 137 in paragraph (f)”.

**CLAUSE 133**

**THAT**, Clause 133 of the Bill be amended in sub-clause (2) by inserting the words “Advisory Council and “immediately before the words “Director General”.

**CLAUSE 134**

**THAT**, Clause 134 of the Bill be amended in sub-clause (1) by inserting the words “Kenya” immediately before the words “fishery waters”.

**CLAUSE 139**

**THAT**, Clause 139 of the Bill be amended by —

- (a) inserting the words “or ordering” immediately after the word “bringing” in sub-clause (3).
- (b) inserting the following new sub-clause immediately after sub-clause (6)—

“(6A). Monitoring Control and Surveillance(MCS) in this section means the mechanism for implementation of agreed policies, plans or strategies for oceans and fisheries management and includes collection, measurement and analysis of data and information on fishing activities and using the same to specify the terms and conditions under which fisheries resources can be harvested ;checking and supervising fishing activities to ensure all applicable laws and regulations are being observed by the fishers and all licence holders and the components include surveillance on land, air and at sea.”



**CLAUSE 146**

**THAT**, Clause 146 of the Bill be amended in paragraph (a) sub-clause (1) by deleting the words "take" and substituting therefor the word "order".

**CLAUSE 150**

**THAT**, Clause 150 of the Bill be amended in sub-clause (1) by deleting the words "The shall establish" appearing in the opening paragraph and substituting therefor the words "There shall be established".

**CLAUSE 151**

**THAT**, Clause 151 of the Bill be amended in paragraph (b) sub-clause (1) by deleting the word " section 152" and substituting therefor the words" section 150".

**CLAUSE 154**

**THAT**, Clause 154 of the Bill be amended in sub-clause (3) by—

- (a) deleting the words " not exceeding five hundred thousand" and substituting therefor the words " not less than ten million";
- (b) deleting the words " not exceeding three years" and substituting therefor the words " not less than five years".

**CLAUSE 159**

**THAT**, Clause 159 of the Bill be amended in sub-clause (3) by deleting the words "not exceeding two million" and substituting therefor the words "not less than fifty million".

**CLAUSE 160**

**THAT**, Clause 160 of the Bill be amended in sub-clause (7)—

- (a) by deleting the words "not exceeding five million" and substituting therefor the words "not less than ten million";
- (b) deleting the words " not exceeding five years" and substituting therefor the words " not less than ten years".

**CLAUSE 162**

**THAT**, Clause 162 of the Bill be amended in sub-clause (3) —

- (a) by deleting the words "not exceeding one million" and substituting therefor the words "not less than fifty million".
- (b) deleting the words " not exceeding five years" and substituting therefor the words " not less than ten years".

**CLAUSE 163**

**THAT**, Clause 163 of the Bill be amended—

- (a) in sub-clause (3)-
  - (i) by deleting the words "not exceeding two million" and substituting therefor the words "not less than fifty million";

(ii) deleting the words " not exceeding ten years" and substituting therefor the words " not less than ten years".

(b) in sub-clause (4)-

(i) by deleting the words "not exceeding two million" and substituting therefor the words "not less than fifty million";

(ii) deleting the words " not exceeding ten years" and substituting therefor the words " not less than ten years".

### **CLAUSE 189**

**THAT** Clause 189 of the Bill be amended in paragraph of (d) of sub-clause (1) by deleting the expression "section171" and substituting therefor the expression "section169".

### **CLAUSE 197**

**THAT**, Clause 197 of the Bill be amended by—

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

(b) inserting a new sub-clause immediately after the renumbered sub-clause (1);

"(2) Where the person charged has committed a similar offence in the past, a fine of an amount not less than that previously penalized plus an additional ten percent shall be imposed."

### **SECOND SCHEDULE**

**THAT**, the Second schedule to the Bill be amended—

(a) by deleting the word "Vanga" and substituting therefor the word "Shimoni";

(b) by deleting the word "Mkongoni" and substituting therefor the word "Mkokoni";

(c) by deleting the word "Old Port" and substituting therefor the word "Mombasa".

## **2. Notice is given that the Member for Mbita (Hon. Millie Odhiambo- Mabona), intends to move the following amendments to the Fisheries Management and Development Bill, 2014 (National Assembly Bill No. 18 of 2014) at the Committee Stage—**

### **LONG TITLE**

**THAT** the long title of the Bill be amended by inserting the words "to enhance the livelihood of communities dependent on fishing" immediately after the words "aquatic resources".

### **CLAUSE 1**

**THAT** the Bill be amended by deleting Clause 1 and substituting therefor the following new clause—

"1.This Act may be cited as the Fisheries Management and Development Act, 2015, and shall come into force on the fourteenth day after publication in the Gazette"

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended—

(a) by deleting the definition of the term “aircraft” and substituting therefor the following new definition—

“aircraft” means any propelled or remotely controlled airborne device capable of sustained movement through the atmosphere and includes helicopters and monitoring devices.”

(b) in the definition of the term “artisanal fishing vessel” by deleting the expression “25 horsepower” and substituting therefor the expression “40 horsepower”;

(c) in the definition of the term “aquaculture establishment” by inserting the word “ system” immediately after the words “or other”;

(d) by inserting the following new definition in the proper alphabetical sequence—

“barter” means trade of fish and fish products by two or more persons with or without use of money;

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

“buy” includes—

- (i) barter;
- (ii) purchase;
- (iii) attempt to barter;
- (iv) attempt to purchase;
- (v) receive on account or consignment in consideration for value;
- (vi) receive in order to send, forward or deliver for sale;
- (vii) broker a sale;
- (viii) purchase or barter for future goods or for any consideration of value; and
- (ix) purchase or barter as an agent for another person”

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

“buyer” means any person who buys;.

(g) in the definition of the term “export” by—

- (i) deleting paragraph (b);
- (ii) deleting paragraph (c); and
- (iii) in paragraph (d) by deleting the words “for the purpose of (a) or (b), when associated with any buying or selling of fish or fish products” and substituting therefor the words “out of the country”.

(h) in the definition of the term “export facility” by deleting the word “food” and substituting therefor the words “fish and fish products”;

(i) by inserting the following new definition in its proper alphabetic sequence—

“fish aggregating device” means a man-made, permanent, semi-permanent or temporary structure or object made from any material used to attract fish;

(j) in the definition of the term “fish processing” by inserting the words “drying, chilling, salting, gutting, smoking,” immediately after the word “freezing”;

- (k) in the definition of the term “fishery” by inserting the words “existing in a delineated area” immediately after the words “or parts thereof” appearing in paragraph (a);
- (l) by inserting the following new definition in its proper alphabetic sequence—  
“fish landing station” means a point on the shore of any waters or coastline of which the Director-General has by notice in the gazette designated as a point to land fish”;
- (m) by inserting the following new definition in its proper alphabetic sequence—  
“fish port” means a place on a lake shore or sea front where fishing vessels may resort for shelter, servicing, loading and off- loading of fish and fishing equipment”;
- (n) by inserting the following new definition in proper alphabetical sequence—  
“illegal fishing” includes—
- (d) activity conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of its laws and regulations;
  - (e) activities conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which those states are bound, or relevant provisions of international law; and
  - (f) activities carried out in violation of national laws or international obligations, including those undertaken by co-operating states to a relevant regional fisheries management organization.”
- (o) in the definition of the term “international agreement” by inserting the words “that Kenya is a party to pursuant to the Treaty Making and Ratification Act, 2013” immediately after the word “arrangements”;
- (p) in the definition of the term “master” by—
- (iii) inserting the word “means” immediately after the words “in relation to a vessel, aircraft or vehicle”;
  - (iv) deleting the words “in relation to a vessel, aircraft or vessel the”.
- (q) by inserting the following new definition in proper alphabetical sequence—  
“management” means an integrated process of information gathering, analysis, planning, consultation, decision making, allocation of resources, formulation and implementation of rules and regulation which govern fisheries activities in order to ensure the continued production of the resources and accomplishment of other fisheries objectives;
- (r) by deleting the definition of the term “operator” and substituting therefor the following new definition—  
“operator” means any person responsible for the operations of, directs or controls a vessel, including the owner, charterer and master of the vessel;
- (s) by deleting the definition of the term “sell” and substituting therefor the following new definition—  
“sell” includes—
- (e) any method of disposition for consideration, of anything which has value or which can be exchanged for cash or barter;

- (f) disposition to an agent for sale on consignment;
  - (g) offering or attempting to dispose of for value or receiving or having in possession for disposal for value or displaying for disposal for value, or sending or delivering for disposal for value, or causing or permitting to be disposed for value, offered or displayed for disposal for value; and
  - (h) disposition by way of raffle, lottery or other game of chance under the Betting Control and Licensing Act, 2012.
- (t) by deleting the definition of the term “semi-industrial fishing vessel” and substituting therefor the following new definition—
- “semi-industrial fishing vessel” includes—
- (c) a decked fishing vessel with an overall length of not less than ten meters and not more than twenty meters, less than fifty GRT and powered by an inboard engine; and
  - (d) an undecked fishing vessel with an overall length of not less than ten meters and not more than twenty meters, less than fifty GRT and powered by engines of at least forty horsepower.
- (u) by deleting the definition of the term “support vessel” and substituting therefor the following new definition—
- “support vessel” means a vessel carrying out operations in connection with and support of a fishing vessel including transport or supply;
- (v) by deleting the repeated set of definitions of the terms “subsistence fishing”, “support vessel”, and “surveillance”
- (w) by inserting the following new definition in the proper alphabetical sequence—
- “unregulated fishing includes—
- (c) activities conducted by vessels without nationality, or by those flying the flag of a state not party to that organization, or by a fishing identity in a manner that is not in consistent with the conservation and management measures; and
  - (d) activities carried in areas or fish stocks in relation to which there are no applicable conservation or management measures in where the fishing activity is conducted.”
- (x) by inserting the following new definition in the proper alphabetical sequence—
- “unreported fishing includes activities which the relevant authority has not been notified ;”

**CLAUSE 3**

**THAT**, Clause 3 of the Bill be amended by deleting sub-clause (2).

**CLAUSE 5**

**THAT**, clause 5 of the Bill be amended—

(a) in sub-clause (1) by inserting the words “to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security” immediately after the words “sustainable development”;

(b) in sub-clause (2) by—

- (i) inserting the word “and” immediately after the words “allocation of” in paragraph (b);
  - (ii) inserting the word “and” immediately after the word “biodiversity” in paragraph (e);
  - (iii) deleting the words “general the” appearing in paragraph (g) and substituting therefor the words “the general”
  - (iv) inserting the words “replenishing natural habitats through diversification from capture fisheries” immediately after the words “food security” in paragraph (m);
  - (v) deleting paragraph (p) and substituting therefor the following new paragraph—  
“(p) effective implementation of international agreements and relevant international laws in conformity with the Treaty Making and Ratification Act, 2013”;
  - (vi) deleting the word “arrangements” appearing in paragraph (q);
  - (vii) inserting the following new paragraph immediately after paragraph (q)—  
“(r) ensuring that the livelihood of fishers is enhanced”.
- (c) in sub-clause (2) by
- (i) renumbering the existing sub-clause (2) as sub-clause (3); and
  - (ii) deleting the words “sub paragraph (1)(a)” and substituting therefor the words “ sub paragraph (2)(a)”

**CLAUSE 6**

**THAT**, clause 6 of the Bill be amended—

(b) in sub-clause (1) by—

- (i) deleting the words “the Cabinet Secretaries responsible for” appearing immediately after the words “consist of”
- (ii) deleting paragraphs “(a), (b), (c), (d), (e), (f) (g), (h), (i) ,(j), (k), (l), (m), (n) and (o) and substituting with the following new paragraphs—
  - (j) the Cabinet Secretary responsible for fisheries;
  - (k) the Cabinet Secretary responsible for interior and coordination of national government;
  - (l) the Cabinet Secretary responsible for transport and infrastructure;
  - (m)the Cabinet Secretary responsible for national treasury;
  - (n) the Cabinet Secretary responsible for foreign affairs and international trade;
  - (o) a representative from a university or a research institution with expertise in fisheries and who shall be nominated by the university Council;
  - (p) a representative from the consumer federation nominated by the national consumers federation;
  - (q) a designate from the Council of Governors with expertise in fisheries who shall be nominated by the Council of Governors; and
  - (r) a representative of fishers nominated by a national umbrella body of fishers.”

- (e) in sub-clause (2) by—
- (i) inserting the word ‘national’ immediately after the word “government”.
  - (ii) deleting the word “of” appearing in paragraph (b) and substituting therefor the word “and”;
- (f) by inserting the following new sub-clauses immediately after sub-clause (2)—
- “(2A) The Chairperson of the Council shall be appointed by the President from persons nominated under clause 6 (2) not being a Cabinet Secretary, upon recommendation by the Cabinet Secretary responsible for fisheries;”
- “(2B) The Vice Chairperson of the Council shall be elected by members of the Council at their first sitting, provided that the Chair and the Vice Chairperson shall not be of the same gender;”
- “(2C) in making appointments of the members to the Council, the Cabinet Secretary shall observe regional, gender, age, disability and ethnic balance;”
- (g) in sub-clause (3) by inserting the word “to” immediately after the words “relevant”

## **CLAUSE 9**

**THAT**, clause 9 of the Bill be amended by—

- (a) inserting the words “development of standards on” immediately after the words “conservation” in paragraph (a);
- (b) deleting the word “implement” appearing in paragraph (b) and substituting therefor the words “monitor the implementation of”;
- (c) deleting the word “manage” appearing in paragraph (c) and substituting therefor the words “develop standards for the management of”;
- (d) deleting the words “prepare and implement” appearing in paragraph (d) and substituting therefor the words “develop guidelines for the preparation of”;
- (e) in paragraph (e)-
  - (iii) by deleting the words “and extension services” appearing after the word “education”
  - (iv) by deleting the words “and relevant policies” appearing immediately after the words “sustainable use”.
- (f) deleting the words “collaborate in and,” appearing in paragraph (g) and substituting therefor the words “either alone or in collaboration with other institutions nationally or internationally”
- (g) deleting the words “for fisheries conservation, management, development and aquaculture production” appearing in paragraph (i);
- (h) inserting the words “subject to the Treaty Making and Ratification Act, 2013” immediately before the words “act on behalf” appearing in paragraph (k);
- (i) inserting the words “pursuant to the Treaty Making and Ratification Act, 2013” immediately after the words “Cabinet Secretary” appearing in paragraph (l);
- (j) inserting the words “and the Constitution” immediately after the words “this Act” appearing in paragraph (n);

- (k) inserting the words “that relates to its mandate under this Act and the Constitution” immediately after the words “infrastructure” appearing in paragraph (o);
- (l) inserting the words “and County governments” immediately after the word “ departments” appearing in paragraph (p);
- (m) inserting the words “County governments” immediately after the words “agencies” appearing in paragraph (q);
- (n) inserting the words “in collaboration with County governments and the Fish Marketing Authority established under section 201” at the beginning of paragraph (s); and
- (o) inserting the word “aquaculture” immediately after the words “coastal fisheries” appearing in paragraph (u).

### **CLAUSE 10**

**THAT**, clause 10 of the Bill be amended—

(a) in sub-clause (1)—

- (i) by inserting the word “standards” appearing in paragraph (b) immediately after the word “management”;
- (ii) by deleting the words “to the Cabinet” appearing in paragraph (f) and substituting therefor the word “to Parliament”;
- (iii) by deleting the words “approve a” appearing in paragraph (g) and substituting therefor the words “establish an open, competitive,”;
- (iv) by inserting the words “open, competitive” immediately after the word “transparent” in paragraph (h);

(b) in sub-clause (3)—

- (i) by deleting paragraph (b) and substituting therefor following new paragraph—

“(b) comply with the provisions of this Act”;
- (ii) paragraph (d) by inserting the words “and other government entities” immediately after the words “Director-General”;

### **CLAUSE 11**

**THAT**, clause 11 of the Bill be amended—

(a) in sub-clause (1) by—

- (i) deleting sub paragraph (iv), repeated sub paragraph (iv) and (v) of paragraph (b)
- (ii) deleting paragraph (c);
- (iii) deleting the words “competitively recruited” appearing in paragraph (d) and substituting with the words “openly appointed” ;
- (iv) deleting paragraph (e) .

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

“(3) The members of the Board shall at their first meeting after appointment, elect a deputy Chairperson from amongst their number provided that the Chairperson and the deputy Chairperson shall not be of the same gender.”;



- (c) in sub-clause (4) by
  - (iii) deleting the expression “or (e)” appearing immediately after the expression “(1) (d)”;
  - (iv) inserting the words “age, regional and ethnic balance” immediately after the word “parity.”
- (d) in sub-clause (5) by—
  - (i) deleting the expression “or (e)” appearing immediately after the expression “(1) (d)”;
  - (ii) deleting the word “oceanography” appearing in paragraph (e) and substituting therefor the words “aquatic science”.

## **CLAUSE 12**

**THAT**, clause 12 of the Bill be amended—

(a) in sub-clause (1)—

- (i) by deleting paragraph (b);
- (ii) by deleting the words “ the permission of” appearing in paragraph (c ) (i) and substituting therefor the words “notifying the”;
- (iii) by deleting sub-paragraph (v) of paragraph (c), and substituting therefor the following new sub-paragraph—

“(v) is unable, by reason of mental or physical infirmity to discharge functions as a member of the Board”.

(b) in sub-clause (2) by deleting the word “Minister” appearing in paragraph (a) and substituting therefor the words “Cabinet Secretary”.

## **CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended—

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

“(1) A member of the Board shall declare his or her interest in any matter falling within the functions of the Board in which the member of the Board knows or ought to have reasonably known that an interest exists, as described in subsection (5);

- (b) by deleting sub-clause (2);
- (c) in sub-clause 5 by deleting the word “or” appearing in sub-paragraph (iii) of paragraph (a);
- (d) in sub-clause (6) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) “family member” shall mean a parent, brother, sister, spouse, cousin, aunt, uncle, nephew, niece or child, including a person who is adopted legally or for whom care was given by the member such that there exists a relationship in the nature of parent and child, and shall also mean a spouse of any person referred to in this definition and their children, and any other member of a person’s immediate family;”

**CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended by—

(a) deleting the word “six” appearing in paragraph (a) of sub-clause (3) and substituting therefor the word “five”;

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

“(5) The Board may, in its discretion at any of its meetings—

(c) invite a person or persons to attend; or

(d) receive or hear submissions or information from any person.”

(c) deleting sub-clause (7) and substituting therefor the following new sub-clause 7—

“(7) The Board may from time to time, establish such advisory sub-committees as it considers necessary in relation to its functions and powers for the purpose of making reports and recommendations to the Board and such sub-committees shall be comprised of Board members.”

(d) deleting sub-clause (8) and substituting therefor the following new sub-clause 8—

“(8) Any decision of a sub-committee established by the Board under subsection (7) shall be subject to ratification by a fully constituted Board meeting.”

**CLAUSE 15**

**THAT**, clause 15 of the Bill be amended—

(a) by inserting the words “openly and transparently, and” immediately after the words “Board” in sub-clause (1);

(b) in sub-clause (2) by—

(i) deleting the word “development ” appearing immediately after the word “environmental management ” in paragraph (a);

(ii) deleting the word “oceanography ” appearing in paragraph (c) and substituting therefor the word “aquatic science”;

(iii) deleting the words “area which the Board is satisfied is relevant to the position” appearing in paragraph (d) and substituting therefor the words “related field”; and

(iv) deleting the words “fifteen years” appearing in the proviso and substituting therefor the words “ten years”.

**CLAUSE 16**

**THAT**, Clause 16 of the Bill be amended by—

(a) deleting paragraph (d) in sub-clause (2) and substituting therefor the following new paragraph—

“(d) collaborate with the Fish Marketing Authority established under section 204 and other agencies to identify marketing and investments opportunities for the fisheries sector;”

(b) deleting the words “or other person in the service of the Service” appearing in sub-clause (3)

**CLAUSE 18**

**THAT** Clause 18 of the Bill be amended in sub-clause (1) by deleting the words “armed force” and substituting therefor the words “Defence Forces”

**CLAUSE 20**

**THAT**, clause 20 of the Bill be amended—

(a) in sub-clause (2) (a) by—

(iii) deleting the word “and” appearing immediately after the word “including”

(iv) deleting the word “of” appearing immediately after the word “enforcement”

(b) in sub-clause (2) (b) by —

(iii) deleting the words “as appropriate” at the beginning of the paragraph; and

(iv) inserting the words “subject to the Treaty Making and Ratification Act, 2013” immediately after the word “directs”.

**CLAUSE 21**

**THAT** Clause 21 of the Bill be amended in sub-clause (2) by—

(a) deleting the word “Second” and substituting therefor the word “First”;

(b) inserting the word “Secretary” immediately after the word “Cabinet”

**CLAUSE 22**

**THAT**, clause 22 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “provided” and substituting therefor the word “appropriated”.

(b) in sub-clause (2) by—

(i) deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) contracts for technical consultants, observers, researchers and other personnel, activities or operations which support the functions and programmes of the Service;

(ii) by deleting the words “of the Director General and staff and members of the Board and Cabinet Secretary in accordance with the budget and approved rates approved by the Board” appearing in paragraph (d)

(c) by deleting sub-clause (4); and

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

“(5) The Service may open and maintain an account with a bank approved by the National Treasury under the Public Finance and Management Act 2012 and shall at all times maintain one account and shall pay all its moneys into such account.”

**CLAUSE 24**

**THAT**, clause 24 of the Bill be amended in sub-clause (3) by deleting the words “or in pursuance of the Board’s approval given with prior written approval of the Cabinet Secretary to the Treasury”

**CLAUSE 25**

**THAT**, clause 25 sub-clause (2) of the Bill be amended by deleting the expression “2003” and substituting therefor the expression “2015”.

**CLAUSE 26**

**THAT**, Clause 26 of the Bill be amended in sub-clause (4) by inserting the word “Secretary” after the word “Cabinet”.

**CLAUSE 27**

**THAT**, Clause 27 of the Bill be amended in sub-clause (3) by deleting the word “facilitate” and substituting therefor the words “provide supplementary funding for”.

**CLAUSE 28**

**THAT**, Clause 28 of the Bill be amended by—

- (a) deleting sub-clause (4) and substituting therefor the following new sub-clause—  
“(4) The trust shall be administered by a five member Board of Trustees nominated through an open and competitive process and they shall meet requirements of Chapter six of the Constitution.”;

- (b) inserting the following new sub-clause immediately after sub-clause (4)—

“(5) The Members of the Board of Trustees shall include—

- (i) two fisherpersons from fresh waters and marine waters;  
(ii) two persons nominated by the traders exporters association and fish processors;  
(iii) one person appointed by the Cabinet Secretary responsible for fishing with background in aquatic science.

**CLAUSE 29**

**THAT**, clause 29 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Nothing in this Act shall be deemed to prevent any member of the community from using, subject to such conditions as may be prescribed under this Act, such fisheries or fisheries resources as it has been the custom of that community to use.”

**CLAUSE 30**

**THAT**, clause 30 of the Bill be amended by—

- (a) inserting the words “County governments” immediately after the words “in consultation with”; at the opening clause;

- (b) inserting the following new paragraph immediately after paragraph (g)—  
“(gg) promote the development of other sustainable methods of *insitu* and *exsitu* fishing;”

**CLAUSE 32**

**THAT**, clause 32 of the Bill be amended in sub-clause (1) by deleting the words “the Director-General shall” appearing immediately after the expression “section 31(1)”.

**CLAUSE 33**

**THAT**, the Bill be amended by deleting Clause 36 and substituting therefore the following new Clause”.

Intergovernmental  
Fisheries  
Coordinating  
Committee

“33.(1) Subject to Article 186 and 187 of the Constitution, there is hereby established an Intergovernmental Fisheries Coordinating Committee whose membership shall be—

- (a) the Cabinet Secretary responsible for Fisheries;
- (b) the Cabinet Secretary responsible for Environment;
- (c) the Cabinet Secretary responsible for Finance;
- (d) three Governors or their designates being executive members in charge of Fisheries; and
- (e) a representative of Fishers appointed by the Cabinet Secretary nominated by the umbrella association of fishers.

(2) The Committee shall be responsible for—

- (a) the development of joint measures for conservation , management and utilization of fisheries resources specific to counties;
- (b) intergovernmental dispute resolution on issues under this Act
- (c) development of shared management agreements or plans;
- (d) development of regulations of shared responsibility for management of artisanal fisheries, marine protected areas and areas within the jurisdiction of each county; and
- (e) approval of County Plans on fisheries in conformity with this Act.

(3) The shared management plans under sub-section(2) shall include—

- (a) a statement of the objectives of the agreement;
- (b) a description of the area covered;
- (c) a description of the management activities to be covered;
- (d) rules governing the access to and use of the areas by other fishers;
- (e) rules governing the requirements for information and data;
- (f) rules governing the enforcement of the agreed activities;
- (g) the duration of the agreement;
- (h) provisions for monitoring the implementation of the agreement;
- (i) provision for revision of the agreement;
- (j) provision for settlement of disputes as provided for under the Act .

(4) In undertaking its functions, the committee shall consult fishers organizations including Beach Management.

**CLAUSE 35**

**THAT**, clause 35 of the Bill be by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) be approved by the Intergovernmental Fisheries Co-ordinating Committee established under section 33”

**CLAUSE 36**

**THAT**, clause 36 of the Bill be amended by deleting Clause 36 and substituting therefore the following new Clause”.

Conflict resolution

“36.(1) where there is a conflict between a county fisheries management plan and the management relating to the provisions of this Act, it shall be referred to the Intergovernmental Fisheries Co-ordinating Committee established under section 33 for resolution.

(2) any Conflict referred to the Committee under section 33(1) (a) shall be resolved within 30 days”

**CLAUSE 37**

**THAT**, the Bill be amended by deleting clause 37.

**CLAUSE 38**

**THAT**, clause 38 of the Bill be amended in sub-clause (2) by—

- a) inserting the words “and any other allowances deemed necessary” immediately after the word “administration” in paragraph (b);
- b) inserting the following new paragraphs immediately after paragraph (e)—

“(ea) the protection of vulnerable groups, especially youth and women;”

“(eb) processes necessary to ensure that no more than one third of the Beach Management Units are of the same gender and to ensure the inclusion of youth and persons with disability in the leadership.”

**CLAUSE 40**

**THAT**, clause 40 of the Bill be amended by—

- a) inserting the word “special” immediately after the word “requires” appearing in paragraph (b) of sub-clause (1) ;

- b) deleting the words “The Director General shall ensure that stakeholders are consulted in the development of each fisheries management plan , that such plan is consistent with this Act and the following are included in each plan” in sub-clause (3) and substituting therefor the following new words —

“The Director-General shall, in consultation with the counties and other stakeholders, develop guidelines and standards for the development of fisheries management plans that must conform to this Act and shall include—”

- (c) inserting the following new paragraph immediately after paragraph (m) in sub-clause (3)—

“(n) social impact assessment of the plan with reference to disadvantaged groups including women, persons with disability and the youth”;
- (d) deleting sub-clause (9) and substituting therefor the following new sub-clause—

“(9) Any person who fails to comply with the management plan commits an offence and shall be liable—

  - (i) in case of industrial fishing, to a fine not exceeding five hundred thousand shillings; or
  - (ii) in case of artisanal fishing, to a fine not exceeding one hundred thousand shillings.”
- (e) deleting the words “not exceeding six months, and in respect of all other activities not exceeding two years or both” and substituting therefor the words “not exceeding three months, and in respect of all other activities not exceeding six months or both in sub-clause (10)”.

#### **CLAUSE 41**

**THAT**, clause 41 of the Bill be amended—

- (a) in sub-clause (1)—
  - (i) by inserting the words “in accordance with the best scientific advice and such other relevant information as may be available” immediately before the words “The Director General may”;
  - (ii) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) closed seasons and or areas for species of fish or methods of fishing provided that customary fishing rights are protected”;
  - (iii) in paragraph (d) by inserting the words “provided that customary fishing rights are protected” immediately after the words “engage in fishing”;
  - (iv) by deleting paragraph (i) and substituting therefor the following new paragraph—

“(i) regulate trade in endangered species of fish and fish products”;
  - (v) by inserting the following new paragraph immediately after paragraph (j)—

“(jj) prohibit the possession, trade in or manufacture of prohibited gear in a specified area or areas”;
- (b) by deleting sub-clause (2);
- (c) in sub-clause 3 by inserting the words “in respect of industrial fishing, and to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding three months or to both in respect of artisanal fishing” at the end of the sentence; and
- (d) by inserting the following new sub-clause immediately after sub-clause (3)—

“(4) The measures referred to in this section may include, inter alia—

  - (i) refusal to issue or renew licences;
  - (ii) imposition of special licence or catch fees; and
  - (iii) preferential licensing.”

**CLAUSE 42**

**THAT**, clause 42 of the Bill be amended by deleting sub-clauses (2) and (3).

**CLAUSE 43**

**THAT**, clause 43 of the Bill be deleted.

**CLAUSE 44**

**THAT**, clause 44 of the Bill be amended—

(a) in sub-clause (l)—

(i) by deleting paragraph (l) and substituting therefor the following new paragraph—

“(l) firearms or other electrical shock devices for the purpose of fishing, including stunning, disabling or killing fish, or in any way rendering fish to be caught more easily”;

(ii) in paragraph (m) by deleting the words “in a fisheries management plan” and substituting therefor the words “by regulations established under this part”;

(b) in sub-clause (7) by inserting the following words after the words “or to both” —

“in respect of industrial fishing, and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both in respect of artisanal fishing”; and

(c) by deleting sub-clause (8).

**CLAUSE 45**

**THAT**, clause 45 of the Bill be amended—

(a) in sub clause (1) by deleting the words “No person shall, using a vessel, wilfully, negligently, unintentionally or otherwise damage, destroy, interfere with, endanger, injure or cause loss of life in respect of” and substitute with the words

“No person shall while using a vessel, wilfully and negligently damage, destroy, interfere with, endanger or cause injury in respect of in sub-clause (1)”;

(b) in sub clause (3)—

(i) by deleting paragraph (a) in sub clause (3);

(ii) by deleting paragraph (d) in sub-clause (3) and substituting therefor the following new paragraph—

“(d) make a full report of the incident and steps taken to the police”

(c) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) A person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year or to both, and in addition that person shall fully compensate the owner of the fishing gear for any damage or injury caused under civil law as a consequence of the action unless there is sufficient proof that the damage, destruction, interference or endangerment took place in an area where the person or vessel that caused such consequences were legally entitled to be at that time and it was not reasonably possible to detect the fishing gear or vessel and any relevant fishing gear was not marked in accordance with the requirements pursuant to this Act.”;



(d) by inserting the following new clause immediately after sub-clause (4)–

“(4A) Where life is lost as a consequence of any negligent or wilful action under sub-section (1), the responsible person shall be liable on conviction to a fine not exceeding one million shillings or imprisonment for a term not exceeding ten years or to both, and in addition that person shall fully compensate the estate of the deceased under civil law.”;

(e) deleting the words “as soon as possible and in any case within a reasonable time after the damage, destruction, interference or endangerment took place, and shall produce all available evidence appearing in sub-clause (5)” and substituting therefor the words “within a period of three years”.

#### **CLAUSE 46**

**THAT**, clause 46 of the Bill be deleted.

#### **CLAUSE 47**

**THAT**, clause 47 of the Bill be amended in sub-clause (2) by inserting the words “in respect of industrial fishing or to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months in respect of artisanal fishing” immediately after the words “or to both”.

#### **CLAUSE 48**

**THAT**, clause 48 of the Bill be amended by—

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

“(3) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or to a term of imprisonment not exceeding three years or to both in respect of industrial fishing, or to a fine not exceeding fifty thousand shillings or a term of imprisonment not exceeding six months, or to both.”;

(b) inserting the following new sub-clause immediately after sub-clause (3)–

“(4) where a species of fish has been declared as endangered under subsection (1), the Cabinet Secretary shall take special measures for its protection.”

#### **CLAUSE 50**

**THAT**, clause 50 of the Bill be amended by—

(a) inserting the words “stakeholders” immediately after the words “Advisory Council” in the opening sentence; –

(b) deleting paragraph (k);

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

“(2) The Cabinet Secretary may, subject to approval by the National Assembly, make regulations to give effect to this subsection”;

(d) deleting sub-clause (3)

**CLAUSE 51**

**THAT**, clause 51 of the Bill be amended by—

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

“(1) Any person or Government Ministry or other agency that plans to conduct any commercial activity other than fishing which is likely to have an adverse impact on fish and their habitat, shall apply to the Director-General in the prescribed form prior to the commencement of the planned activity with a view to ensuring the conservation and protection of such resources.”;

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

“Where an application is made under subsection (1), the Director-General shall refer the matter to the National Environment Management Authority who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat, and possible means of preventing or minimizing adverse impact.”;

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

“(3A) Any report made under sub-section (2) must be completed within six months of the making of the application.”;

(d) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“Any person who violates any provisions of this section 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 three years or to both, and in addition such person shall be liable to pay compensation in respect of any resulting loss or damage as well as the full cost of restoring the affected habitat to its previous state.”

**CLAUSE 52**

**THAT**, clause 52 of the Bill be amended by—

(a) deleting the words “or accidentally” appearing in sub-clause (1);

(b) deleting the words “five hundred thousand shillings or to a term of imprisonment not exceeding five years” and substituting therefor the words “five million shillings or to a term of imprisonment not exceeding ten years or to both in sub-clause (2).”

**CLAUSE 53**

**THAT**, clause 53 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2)—

“(3) No person other than a sport fisherman shall land any fish at any point except at a fish landing station or port.

(4) A person who contravenes the provisions of subsection (3) commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both in the case of fish landing stations, or to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or to both in the case of ports.”

**CLAUSE 56**

**THAT**, clause 56 of the Bill be amended by—

- (a) inserting the words “or to areas where the boundaries are disputed or not clear” immediately after the word “flag”; in sub-clause (2);
- (b) inserting the following new words immediately after the words “or both” —  
“in relation to industrial fishing, and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both in relation to artisanal fishing in sub-clause (3).”

**CLAUSE 57**

**THAT**, clause 57 of the Bill be amended in sub clause (1) by inserting the following new words immediately after the word “prescribed” —

“and the approval shall only be given upon production of an Environmental Impact Assessment report on the effect of each introduction.”

**CLAUSE 58**

**THAT**, clause 58 of the Bill be amended in sub-clause (1) by deleting the words “such procedures as the Director-General may notify to the public or as may be prescribed” and substituting therefor the word “regulations”.

**CLAUSE 60**

**THAT**, clause 60 of the Bill be amended by inserting the words “in consultation with the Fish Marketing Authority and” after the word “may”

**CLAUSE 61**

**THAT**, clause 61 of the Bill be amended—

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause—  
“(2) The Cabinet Secretary shall establish a technical committee on Fish Quality and Safety”
- (b) in sub-clause (3) by—
  - (i) by deleting the words “competent authority” appearing in the opening sentence and substituting therefor the word “Committee”;
  - (ii) deleting paragraph (a);
  - (iii) deleting paragraph (e);
  - (iv) deleting paragraph (k);
  - (v) inserting the following new paragraph after paragraph (l)—  
“(m) maintain a register of fishers”
- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause—  
“The Cabinet Secretary may for the purposes of subsection (2), make regulations with regard to conduct of the affairs of the technical committee”

**CLAUSE 62**

**THAT**, clause 62 of the Bill be amended by inserting the words "Pursuant to the Treaty Making and Ratification Act" immediately before the words "The Director-General may".

**CLAUSE 63**

**THAT**, clause 63 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

"(2) A person who knowingly and wilfully contravenes subsection (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 ten years or to both, and in addition any fish or fish products involved in the transaction and those owned or controlled by such person shall be forfeited."

**CLAUSE 65**

**THAT**, clause 65 of the Bill be amended by—

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

"(2) Any aquaculture development plan developed under sub-section (1) shall be for a duration of three years";

(b) deleting the words "at least" in sub-clause (3).

**CLAUSE 67**

**THAT**, clause 67 of the Bill be amended in sub-clause (1) by inserting the words "and without first consulting the affected community" at the end of the sentence.

**CLAUSE 68**

**THAT**, clause 68 of the Bill be amended by—

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

"(1) County governments shall monitor aquaculture and mariculture practices and operations in areas under their respective jurisdiction pursuant to this Act."

(b) deleting sub-clause (2);

(c) deleting sub-clause (3);

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

"(2) Where any person or any county government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such county government shall, in consultation with the Cabinet Secretary, give notice in writing to the owner of the relevant waters requiring the destruction of all fish or fish products in the said waters or the taking of such other measures as the county government may specify in the notice.";

(e) deleting the words "Director-General's" in sub-clause (5); and

(f) inserting the following new sub-clause immediately after sub-clause (5)—

"(6) Where an officer wilfully, negligently or without justifiable cause issues a notice under sub-section (2), the officer shall be held personally liable for any resultant loss."

#### **CLAUSE 69**

**THAT**, clause 69 of the Bill be amended by—

(a) deleting the words "with the endorsement" appearing in sub-clause (1) and substituting therefor the words "on the advice";

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

"Permission for any activity in sub-section (1) may be granted subject to such conditions as the Director-General, with the written approval of the Board, considers appropriate and after an impact assessment has been undertaken."

#### **CLAUSE 73**

**THAT**, clause 73 of the bill be amended in sub-clause (1) by inserting the words " and such approval shall only be given after an impact assessment has been undertaken as provided for in section 74 of the Act" immediately after the words "Director General".

#### **CLAUSE 77**

**THAT**, clause 77 of the bill be amended in sub-clause (1) by deleting the word "Act" and substituting therefor the word "Part".

#### **CLAUSE 78**

**THAT**, Clause 78 of the Bill be amended—

(a) in sub-clause (1) by inserting the words "specified under sub-section (2)" immediately after the word "person";

(b) in sub-clause (2)—

(i) by deleting the words "fishing otherwise than for purposes of sale of the fish caught, including" appearing in paragraph (g);

(ii) paragraph (h) by inserting the words "category of" immediately after the words "such other"

(c) in sub-clause (4) by deleting the word "of" appearing after the words "conviction to a fine" and substituting therefor the words "not exceeding".

#### **CLAUSE 80**

**THAT**, clause 80 of the Bill be amended in sub-clause (4) by deleting the word "of" appearing immediately after the words "conviction to a fine" and substituting therefor the words "not exceeding".

#### **CLAUSE 82**

**THAT**, clause 81 of the Bill be amended—

(a) in sub-clause (1) by deleting the words "and no such information shall be false, misleading or inaccurate"

- (b) in sub-clause (2) by deleting the word “of” appearing after the words “conviction to a fine” and substituting therefor the words “not exceeding”.

**CLAUSE 83**

**THAT**, clause 83 of the Bill be amended—

- (a) by deleting the word “Minister” wherever it appears and substituting therefor the word “Secretary”.
- (b) in sub-clause (6) by deleting the words “he/she” appearing in paragraph (b) and substituting therefor the words “he or she”;
- (c) in sub-clause (7) by deleting the words “or more as they may deem necessary” appearing immediately after the words “up to five years”;
- (d) in sub-clause (8) by inserting the words “or to a term of imprisonment of not more than six months or to both” immediately after the word “shillings”.

**CLAUSE 84**

**THAT**, clause 84 of the Bill be amended in sub-clause (1) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

**CLAUSE 90**

**THAT**, clause 90 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “e.t.c” appearing in paragraph (h).
- (b) in sub-clause (3) by deleting the words “industrial/semi” and substituting therefor the words “industrial or semi”;

**CLAUSE 97**

**THAT**, clause 97 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “has/have” appearing in sub-paragraph of paragraph (a) and substituting therefor the words “has or have”;
- (b) in sub-clause (2) by deleting the words “a fisheries management plan, aquaculture development plan” appearing in paragraph (a).

**CLAUSE 99**

**THAT**, clause 99 of the Bill be amended in sub clause (2) by deleting the word “endorsement” appearing immediately after the words “Director-General and” and substituting therefor the words “approval”.

**CLAUSE 102**

**THAT**, clause 102 of the Bill be amended in sub clause (1) by deleting the expression “EEZ” appearing in paragraph (k) and substituting therefor the words “Exclusive Economic Zone”.

**CLAUSE 106**

**THAT**, Clause 106 of the Bill be amended in sub-clause (3) by inserting the word “shilling” immediately after the words “hundred thousand”.

**CLAUSE 107**

**THAT**, Clause 107 of the Bill be amended in sub-clause (2) by deleting the word “fishing” appearing immediately after the word “recreational” and substituting therefor the words “or under customary fishing rights”.

**CLAUSE 114**

**THAT**, Clause 114 of the Bill be amended in sub-clause (2) by adding the words “in respect of industrial fishing and to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months or to both in respect of industrial fishing” immediately after the words “one year or to both”.

**CLAUSE 118**

**THAT**, Clause 118 of the Bill be amended in sub clause (3) by adding the words “in respect of industrial fishing and to a fine not exceeding twenty thousand shillings or to a term of imprisonment not exceeding six months or to both in respect of industrial fishing” immediately after the words “one year or to both” .

**CLAUSE 119**

**THAT**, Clause 119 of the Bill be amended in sub-clause (2) by deleting the words “not exceeding two hundred thousand” appearing immediately after the word “fine” and substituting therefor the words “not less than five hundred thousand”.

**CLAUSE 127**

**THAT**, Clause 127 of the Bill be amended in sub clause (1) by deleting the expression (d) appearing in paragraph (d).

**CLAUSE 128**

**THAT**, Clause 128 of the Bill be amended by inserting the words “or to imprisonment of a term not exceeding one year or to both” at the end of the clause.

**CLAUSE 137**

**THAT**, Clause 137 of the Bill be amended in sub clause (5)—

- (a) by deleting the words “a notice of demand; and” appearing in paragraph (a); and
- (b) by deleting paragraph (b).

**CLAUSE 139**

**THAT**, Clause 139 of the Bill be amended in sub clause (2) by—

- (a) inserting the words “subject to Article 29 of the Constitution” at the start of the sub-clause;
- (b) deleting the words “his/her” and substituting therefor the words “his or her”.

**CLAUSE 140**

**THAT**, Clause 140 of the Bill be amended in sub clause (1) by deleting the words “he/she” and substituting therefor the words “he or she”.

**CLAUSE 144**

**THAT**, Clause 144 of the Bill be amended in sub clause (2) by deleting paragraph (a).

**CLAUSE 145**

**THAT**, Clause 145 of the Bill be amended in paragraph (b) of sub clause (1) by—

- (a) deleting the word “assault” and substituting therefor the word “assault”.
- (b) deleting the word “poers” and substituting therefor the word “power”

**CLAUSE 148**

**THAT**, Clause 148 of the Bill be amended in sub clause (1) by inserting the words “where the operator is un co-operative but in any event, the authorized officer shall take measures to ensure that such removal shall not cause a permanent or material damage to the vessel” at the end of the sub-clause.

**CLAUSE 149**

**THAT**, Clause 149 of the Bill be amended by inserting the following new sub clause immediately after sub clause (2)—

“(2A) any fish impounded under subsection (1) shall, if found to be fit for human consumption, be distributed to the public”

**CLAUSE 150**

**THAT**, Clause 150 of the Bill be amended in sub clause (1) by deleting the word “establish” and substituting therefor the words “be established”.

**CLAUSE 155**

**THAT**, the Bill be amended by deleting Clause 155 and substituting therefor the following new Clause

Regulations in respect  
of observers

“155. The Cabinet Secretary shall make regulations for the safety and protection of observers while on board and for conditions that must be complied with by the operator or the license owner in respect of any vessel on which an observer is placed”.

**CLAUSE 157**

**THAT**, Clause 157 of the Bill be amended in sub clause (3) by deleting the words “unless such person would incur liability for the act or omission” appearing immediately after the word “officer”.

**CLAUSE 159**

**THAT**, Clause 159 of the Bill be amended by —

- (a) deleting sub clause (1)



- (b) in sub clause (2)
  - (i) by deleting the word “fail” appearing in paragraph (a) and substituting therefor the words “who fails”;
  - (ii) by deleting sub paragraphs (ii), (iii), (iv), and (v) of paragraph (a);
- (c) deleting paragraphs (b), (c), and (e);
- (d) renumbering the remaining sub clauses.

## II. THE SPECIAL ECONOMIC ZONES BILL (NATIONAL ASSEMBLY BILL NO. 6 OF 2015)

**Notice is given that the Chairperson of the Departmental Committee on Finance, Planning and Trade, intends to move the following amendments to the Special Economic Zones Bill, 2015 at the Committee Stage—**

### **CLAUSE 2**

**THAT** clause 2 be amended—

- (a) by inserting the following new definitions in proper alphabetical sequence—
  - “Agricultural Zones” means a Special Economic Zone declared as such under Section 5 to facilitate the agricultural sector, its services and associated activities;
- (b) by deleting the definition of the term “ customs territory” and replacing therefor the following new definition—
  - “Customs Territory” means the geographical area of the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership of the Community under Article 3 of the Treaty for the Establishment of the East African Community but does not include a Special Economic Zone;
- (c) by deleting the definition of the term “duty and substituting therefor the following new definition—
  - “duty” means duty as defined under the East Africa Community Customs Management Act;
- (d) in the definition of “ import” by inserting the words “customs territory or a”;

### **CLAUSE 4**

**THAT** clause 4 be amended—

- (a) by deleting subsection (1) and replacing therefor the following new subsection(1)—
  - “(1) The Cabinet Secretary shall, on the recommendation of the Authority, and in consultation with the Cabinet Secretary responsible for matters relating to finance declare, by notice in the Gazette, any area as a Special Economic Zone as set out in the First Schedule.”
- (b) in subsection (3) by deleting the word “recommended” and substituting therefor the word “recommendation”.

### **CLAUSE 5**

**THAT** clause 5 of the Bill be amended in paragraph (k) by deleting the words “by the Authority” and substituting therefor the words “in the Regulations”.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended by deleting the words “unless otherwise provided under this Act, or any other written law”;

**CLAUSE 7**

**THAT** clause 7 of the Bill be amended by inserting the words “and subject to any conditions as may be imposed” in subparagraph (iii).

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended—

- (a) in subclause (1) by inserting the words “of the East African Community” immediately after the words “applicable customs laws”;
- (b) in sub-clause (2) by inserting the words “ and the Customs laws of the Community” immediately after the words “Subject to this Act”;

**CLAUSE 11**

**THAT** clause 11 of the Bill be amended by inserting a new paragraph immediately after paragraph (p)—

“(q) any other functions as may be directed by the Board”

**CLAUSE 12**

**THAT** clause 12 be amended by deleting paragraph (f) and replacing therefor the following new paragraph (f) —

“(f) four other directors appointed by the Cabinet Secretary, from the private sector or any other public institution being persons who have distinguished service, relevant experience, and expertise.”

**CLAUSE 13**

**THAT** clause 13 be amended by deleting the words “the Schedule” and substituting therefor the words “Second Schedule”.

**CLAUSE 16**

**THAT** clause 16 (1) of the Bill be amended by deleting the words “on such terms and conditions of service as may be specified in the instrument of appointment”.

**CLAUSE 25**

**THAT** clause 25 of the Bill be amended by deleting the words “Board may invest the funds of the Authority in securities” and substituting therefor with the words “Authority may invest its funds in government securities”

**CLAUSE 27**

**THAT** clause 27 be amended-

- (a) in subclause (4) by deleting the words “a reasonable period of time” and substituting therefor the words “one month”.

(b) by inserting the following new subclause immediately after subclause (6)—

**(7)** The Cabinet Secretary shall—

- (a) publish in the Kenya Gazette all approved applications to establish a special economic zone; and

(b) within hundred and eighty(180) days of the coming into force of this Act, publish regulations on the application, issuance, suspension, revocation and appeal process on licensing of special economic zones.

**CLAUSE 28**

**THAT** clause 28 of the Bill be amended in sub clause (c) by inserting the words “to be enacted within hundred and eighty(180) days of the coming into force of this Act.

**CLAUSE 31**

**THAT** clause 31 of the Bill be amended-

- (a) in subclause 1 by inserting the words “, subject to Section 5,” immediately after the words “Authority shall”.
- (b) in the marginal note by deleting the words “Authority to give notice to the Kenya Revenue Authority” and substituting therefor the words “Activities permitted within a Special Economic Zone”.

**CLAUSE 33**

**THAT** clause 33 of the Bill be amended by renumbering the clause appearing immediately after clause 33 as “34”.

**CLAUSE 35**

**THAT** clause 35 of the Bill be amended –

- (a) in subclause (1) by deleting the words “all existing taxes and duties payable under the Customs and Excise Act, Income Tax Act, East African Community Customs management Act and Value Added Tax Act, on special economic zone transactions” and substituting therefor the words “duties and taxes in accordance with the existing tax laws”.
- (b) in the marginal note by inserting the words “developers and operators” immediately after the word “enterprises”; and
- (c) in subsection (2) by deleting paragraphs (g), (h) and (i).

**CLAUSE 37**

That clause 37 of the Bill be amended by inserting the words “within thirty days” immediately after the word “settlement”.

**CLAUSE 39**

**THAT** clause 39 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (h)—

- (i) determine the fees to be levied under this Act.

**INSERTION OF A NEW SCHEDULE**

**THAT** the following new Schedule be inserted immediately after clause 39—

**FIRST SCHEDULE****(S.4(1))****TYPES OF SPECIAL ECONOMIC ZONES**

1. The Authority shall permit multiple sector or single sector Special Economic Zones including but not limited to the following—
  - (a) Free Trade Zones (FTZ)
  - (b) Industrial Parks
  - (c) Free Ports
  - (d) Information Communication and Technology Parks (ICT Parks)
  - (e) Science and Technology Parks
  - (f) Agricultural Zones
  - (g) Tourist and Recreational Zones
  - (h) Business Service Parks**

### III. THE PROHIBITION OF ANTI-PERSONNEL MINES BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)

**Notice is given that the Chairperson of the Departmental Committee on Defence and Foreign Relations (Hon. Ndung'u Gethenji) intends to move the following amendments to the Prohibition of Anti-personnel Mines Bill, 2014 at the Committee Stage-**

**CLAUSE 1**

**THAT** clause 1 of the Bill be amended by —

- (a) deleting the words “and shall come into operation on such day as the Cabinet Secretary may, by notice in the Gazette, appoint” appearing immediately after the expression “2014”;
- (b) deleting the words “and commencement” appearing immediately after the word “title” in the margin note.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended in subclause(1) by inserting the following new definitions in their proper alphabetical sequence-

“anti-handlingdevice” means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine;

“anti-personnel mine” means a mine that is designed, altered or intended to be exploded by the presence, proximity or contact of a person and that is capable of incapacitating, injuring or killing one or more persons. Mines that are designed,altered or intended to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, and that are equipped with anti-handling devices are not considered to be anti-personnel mines as a result of being so equipped;

“Convention” means the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, set out in the Schedule to this Act, as amended from time to time in accordance with Article 13 of the Convention therein;

“mine” means a munition designed, altered or intended to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

“transfer”, in respect of anti-personnel mines, includes, in addition to the physical movement of anti-personnel mines, the transfer of title to and control over anti-personnel mines, but does not include the transfer of territory containing emplaced anti-personnel mines;

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 3-

**3A.** The purpose of the Act is to implement Kenya’s obligations under the Purpose of Convention.  
the Act.

**CLAUSE 7**

**THAT** the Bill be amended in clause 7 by deleting the words “The purposes permitted by this subsection are” appearing in subclause (8) and substituting therefor the words “The possession of a prohibited object is permitted for”.

**CLAUSE 8**

**THAT** the Bill be amended in clause 8 by deleting subclause (7).

**CLAUSE 9**

**THAT** the Bill be amended by deleting clause 9.

**CLAUSE 11****THAT** clause 11 of the Bill be amended —

(a) in subclause (1) by—

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

“(a)that there is a prohibited object in any premises; and

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

“(b)that the persons in possession of the object are not authorized under section 7;

(b) in subclause (2) by —

(i) deleting the words “or magistrate” appearing immediately after the word “judge”;

(ii) deleting the word “by” appearing immediately after the word “necessary” and substituting therefor the words “using reasonable”.

**CLAUSE 13****THAT** clause 13 of the Bill be amended in subclause (5) —

(a) by deleting the words “or magistrate” appearing immediately after the word “judge”;

(b) by deleting the word “by” appearing immediately after the word “necessary” and substituting therefor the words “using reasonable”.

**CLAUSE 14****THAT** the Bill be amended by deleting clause 14.**CLAUSE 16****THAT** the Bill be amended in clause 16 by deleting subclause (1) and substituting therefor the following new subclause-

“(1) Where a request for a fact finding mission is authorized under Article 8 of the Convention and where such request is granted, the Cabinet Secretary may issue an authorization under this section in respect of that mission”.

**CLAUSE 17****THAT** the Bill be amended in clause 17 by deleting subclause (5).**NEW CLAUSE****THAT** the Bill be amended by inserting the following new clause immediately after clause 20-

**20A.** (1) The Cabinet Secretary may delegate to any senior officer under the control, direction and supervision of the Cabinet Secretary, by name or office, any of the functions and powers imposed or conferred on the Cabinet Secretary under this Act except for the power to make rules under section 28.

Delegation  
by Cabinet  
Secretary.

(2) Any delegation under this section shall not prevent the Cabinet Secretary from personally exercising or performing such delegated function or power.

(3) A delegation made under subsection (1) may—

(a) be made subject to such conditions, limitations or restrictions as may be specified in the instrument of delegation; and

(b) be revoked or varied.

**CLAUSE 21**

**THAT** clause 21 of the Bill be amended —

- (a) in subclause (1) by deleting the words “served on any person require him” and substituting therefor the words “ require a person”;
- (b) in subclause (3) by deleting the words “served on any person require him” and substituting therefor the words “ require a person”; and
- (c) in subclause (4) by deleting the words “without reasonable excuse neglects or fails to comply with a notice served on him” and substituting therefor the words “ does not comply with a notice given”; and
- (d) in subclause (5) by deleting the word “knowingly”.

**CLAUSE 22**

**THAT** clause 22 of the Bill be amended in subclause (1) —

- (a) by deleting the words “or magistrate” appearing immediately after the word “judge”;
- (b) by deleting the word “by” appearing immediately after the word “necessary” and substituting therefor the words “using reasonable”.

**CLAUSE 24**

**THAT** clause 24 of the Bill be amended in subclause(1) by deleting the words “Attorney-General” and substituting therefor the words “Director of Public Prosecutions”.

**CLAUSE 25**

**THAT** clause 25 of the Bill be amended in subclause (1) by deleting the words “by or before which a person is convicted of an offence under this Act may by order declare” and substituting therefor the words “may order”.

#### IV. THE REPORT ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA

1. **Notice is given that the Member for Ugunja Constituency (Hon. James O.Wandayi), intends to move the following amendment to the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the Crisis facing the Sugar Industry in Kenya –**

**THAT**, the motion be amended by deleting the full stop at the end and inserting the words, “**subject to the insertion of the following new Recommendations after Recommendation 120 on page 52:**

121. **THAT**, stiff legal action be taken against all the Managing Directors, Transport Managers, Commercial Directors, Finance Directors, National Sales Managers (sugar), Procurement Managers and other officials serving in the Board of Management of Mumias Sugar Company between 2011 and 2014 for losses incurred by the company.
122. **THAT**, disciplinary action be taken against the staff of Mumias Sugar Company who approved and paid extra invoices to some companies like Milicon’s, and allowed execution of variations without first obtaining cost estimates and the approval of the Management Tender Committee of the Mumias Sugar Company.

123. **THAT**, disciplinary action be taken against the staff who failed to adhere to company policy on pricing, discounts, recruitment and management of distributors and transporters and management of inter-warehouse transfers at Mumias Sugar Company.
124. **THAT**, all distributor and transport contracts at Mumias Sugar Company should be reviewed immediately. All distributors and transporters that do not meet the mandatory requirements as per contract should be terminated.
125. **THAT**, the Chief Executive Officer of Mumias Sugar Company takes disciplinary action against all the staff identified as being responsible for anomalies and failings in the sugar importation process; and
126. **THAT**, the Board of Mumias Sugar Company undertakes a review of their internal audit department with a view to assessing current risks and employing measures to address them.

**2. Notice is given that the Member for Mumias East (Hon. Benjamin Washiali) intends to move the following amendments to the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the Crisis Facing the Sugar Industry in Kenya laid on the floor of the House on March 12, 2015 pursuant to Standing Order 54**

**THAT**, the Motion be amended by inserting the following words:- "*subject to amendment of the Report by:*"

(a) *deletion of Paragraph 101;*

(b) *insertion of the following new Paragraphs immediately before Paragraph 102 (Observations of the Committee):-*

**101A.** The key conclusion from investigations on Mumias Sugar Company's exports was that it was a ploy to defraud the Government of the realizable Value Added Tax (VAT). Neither the Management nor the Board of the Company could confirm that the sugar actually left the country.

**101B.** Although the former Mumias Sugar Company Managing Director Dr. Evans Kidero submitted that documents proving that the consignment indeed left the country in the custody of the Company, the current Mumias Sugar Company management was at pains to prove that indeed the sugar left the country. Documents provided by the management in an attempt to prove that the sugar was indeed exported were not verifiable. The Board of Directors, through the Chairman Mr. Dan Ameyo, submitted that the Board would carry out a forensic audit on the exports, like it had done on company sugar imports, and give its findings to the Committee within six months.

(c) *deletion of Paragraph 115 (Recommendations of the Committee) and substituting therefor the following:-*

**115.** In view of the fact that there is little evidence that Mumias Sugar Company did make any sugar exports to the regional market between 2006 and 2009, the House recommends that:

- (i) the Government recovers from the then Managing Director of Mumias Company, Dr. Evans Kidero, the lost VAT revenue amounting to Ksh 577 million which it would have realized had the Company made the exports;
- (ii) the then Managing Director Dr. Evans Kidero takes full responsibility and be barred from holding public office since the fraudulent transactions took place during his tenure as the Chief Executive Officer; and that
- (iii) the Ethics and Anti-Corruption Commission and the Directorate of Criminal Investigations investigate the owners of all the trucks that apparently ferried the sugar from Mumias go-downs supposedly for export together with the directors of companies associated with them, namely YH Wholesalers, Paleah Stores Ltd, International Relief Services with a view to preferring charges against them if found culpable.



The House resolved on Wednesday, February 11, 2015 as follows:-

- V. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on any **Motion**, including a Special motion shall 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 shall be called upon to reply; and that priority in speaking 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.
- VI. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by 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 (if the Bill is not sponsored by either of them); 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.
- VII. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on a **Report of a Committee**, including a Report of a Joint Committee of the Houses of Parliament, a Sessional Paper or any other Report submitted to the House, shall be limited as follows: - A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, 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 (15) minutes each; and that priority shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.

The House also resolved on Wednesday, July 29, 2015 as follows:-

- VIII. **THAT**, notwithstanding the resolution of the House of Wednesday, February 11, 2015 regarding limitation of time in debates, each speech in a debate on any **Sessional Paper** shall be limited in the following manner: - A maximum of sixty (60) minutes with not more than ten (10) minutes for the Mover in moving and five (5) minutes for any other Member speaking, **including** the Leader of the Majority Party and the Leader of the Minority Party and that five (5) minutes before the expiry of the time, the Mover shall be called upon to reply; and further that priority in speaking shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.
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# NOTICE PAPER

Tentative business for

Wednesday (Morning), August 26, 2015

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*(Published pursuant to Standing Order 38(1))*

It is notified that the House Business Committee, at their last meeting, approved the following tentative business to appear in the Order Paper for Wednesday (Morning), August 26, 2015:-

**A. THE PARLIAMENTARY POWERS AND PRIVILEGES BILL, (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)**

(The Hon. Adan Keynan, M.P.)

Second Reading

**B. THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL (NATIONAL ASSEMBLY BILL NO. 07 OF 2015)**

(The Hon. Cecilia Ng'etich, M.P.)

Second Reading

**C. THE AGRICULTURE, FISHERIES AND FOOD AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.17 OF 2015)**

(The Hon. Silas K. Tiren, M.P.)

Second Reading

**D. THE HEALTH RECORDS AND INFORMATION MANAGERS BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2015)**

(The Hon. Agostinho Neto, M.P.)

Second Reading

**E. MOTION - FIREARMS TRACKING AND REGISTRATION SYSTEM**

(The Hon. (Dr.) Victor Munyaka, M.P.)

*(Resumption of debate interrupted on Wednesday, July 29, 2015 - Morning Sitting)  
(Balance of time – 2hr 30 mins)*

**F. MOTION - DECLARATION OF CATTLE RUSTLING AS A NATIONAL DISASTER & ESTABLISHMENT OF A SPECIAL FUND FOR VICTIMS**

(The Hon. William Cheptumo, M.P.)

**G. MOTION - DEVELOPMENT AND IMPLEMENTATION OF A NATIONAL CURRICULUM FOR EMERGENCY TRAINING OF MEDICAL PERSONNEL**

(The Hon. Dr. Susan Musyoka, M.P.)

**H. MOTION - ENGAGEMENT OF THE NATIONAL YOUTH SERVICE IN CONSTRUCTION OF DAMS**

(The Hon. Joe M. Mutambu, M.P.)

# APPENDIX

## THE NATIONAL ASSEMBLY

### SCHEDULE of Questions for

Tuesday, August 25, 2015

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It is notified that, pursuant to Standing Orders 191 and 216, the Cabinet Secretaries for *Education, Science and Technology*; *the National Treasury*; and *Land, Housing and Urban Development*, will appear before the following Departmental Committees on Tuesday, August 25, 2015 at the times hereunder:-

<u>Departmental Committee</u>	<u>Cabinet Secretary</u>	<u>Time</u>	<u>Venue</u>
(i) Departmental Committee on Education, Research and Technology	<i>Cabinet Secretary for Education, Science and Technology</i>	10.00 - 11.30 pm	<i>The National Assembly Chamber</i>
(ii) Departmental Committee on Finance, Planning and Trade	<i>Cabinet Secretary for the National Treasury</i>	10.00 am – 11.30 am	<i>The Mini Chamber, County Hall</i>
(iii) Departmental Committee on Lands	<i>Cabinet Secretary for Land, Housing and Urban Development</i>	11.30am - 12.30 pm	<i>The Mini Chamber, County Hall</i>

The Committees' Agenda has been determined as follows-

### **AGENDA**

*(Published pursuant to Standing Order 170E (2))*

1. Prayers
  2. Communication from the Chairperson(s)
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### **Questions under the Departmental Committee on Education, Research and Technology**

#### **Questions to the Cabinet Secretary for Education, Science and Technology:**

- (i) **Question No. PVT/010/15 by the Member for Navakholo Constituency (The Hon. Emmanuel Wangwe, M.P.):**

Could the Cabinet Secretary inform the Committee whether he is aware that the current Vice Chancellor of the University of Nairobi is handling the duties and responsibilities assigned to the Deputy Vice Chancellor for Administration and Finance including financial authority for expenditure, transfer of staff, management of expenditure, procurement of goods and services, among others;

clarify to Honourable Members the roles of the Vice Chancellor and the Deputy Vice Chancellor; state any measures in place to resolve the alleged ongoing conflict between the operations of these two offices, the violations of statutory obligations of respective offices and violation of corporate governance ethics. Could the Cabinet Secretary further confirm whether the University Council has been properly constituted in compliance with established statutes?

**(ii) Question No. PVT/05/15 by the Member for Kitui East Constituency (The Hon. (Maj) Marcus Muluvi, M.P.):**

Could the Cabinet Secretaries apprise Members the measures being undertaken by the Government to protect its citizens including students from internal threats, and in particular, explain to Committee the whereabouts of one Ms. Risper Mutindi Kasyoka Mutua of Ndonguni Sub-location, Maluma Location, Chuluni Division, Nzambani District of Kitui County who until her disappearance following the Garissa University's terrorist attack in April 2015 was a Second Year Business Management student at the institution; and provide urgent response including compelling the University administration to assist in the investigation into the matter so as to bring it to closure considering that her psychologically stressed parents have unsuccessfully searched for her since the attack including seeking assistance from Garissa Police Station and the National Disaster Management officials and undertaking DNA testing on bodies flown from the College.

**(iii) Question No. 059/2015 by the Member for Chuka Igamba-ngombe Constituency (The Hon. Muthomi Njuki, M.P.):**

Could the Cabinet Secretary apprise the Committee on the criteria used by the Government during the 2015 Form One Selections Exercise, with particular focus on admissions to national schools by pupils from public schools as compared to private schools?

**(iv) Question No. 060/2015 by the Member for Mwingi Central Constituency (The Hon. Joe Mutambu, M.P.):**

Considering that the Government introduced Free Primary Education in 2003 which is a constitutional requirement, could the Cabinet Secretary apprise the Committee on measures the Ministry of putting in place to ensure that no deserving child is sent away from school for unauthorized charges like activity fees and action taken against head-teachers and school managers levying such fees in public primary schools?

**(v) Question No. 061/2015 by the Member for Emuhaya Constituency (The Hon. (Dr.) Wilber Ottichilo, M.P.):**

Could the Cabinet Secretary explain why the Ministry has failed to present to the National Assembly the Policy and Bill on Space Science and Technology which was coordinated and finalized by the National Commission for Science, Technology and Innovation (NACOSTI) in 2013, and give timelines for presenting the said Policy and Bill?

**(vi) Question No. 062/2015 by the Member for Emuhaya Constituency (The Hon. (Dr.) Wilber Ottichilo, M.P.):**

Could the Cabinet Secretary inform the Committee when the Ministry intends to implement the Science, Technology and Innovation Act 2013, and further apprise Members on reasons as to why it has taken such a long time to implement the Act given its importance to the accelerated socioeconomic development of the country?

**(vii) Question No. 063/2015 by the Member for Emuhaya Constituency (The Hon. (Dr.) Wilber Ottichilo, M.P.):**

Could the Cabinet Secretary explain to the Committee why our national universities continue to offer diploma and degree training courses in biotechnology at a time when the Government's policy action of banning Genetically Modified Organisms (GMOs) in the country since 2013 has stifled business and cut off international funding in biotechnological research and development and consequently plummeted employment opportunities for our biotechnology graduates as well as risking our food security; and further apprise Members on why the Ministry has failed to advise the Government to lift the ban given the global importance of biotechnology in food security and climate change mitigation?

**(viii) Question No. 066/2015 by the Member for Homa Bay Town Constituency (The Hon. George Peter Kaluma, M.P.):**

Considering that Section 26 of the Universities Act 2012 requires the Commission for University Education to set up a university in every county giving priority to counties without public universities upon the Act coming into force, and based on the fact that Homa Bay County's high population and centralized location within the larger Nyanza region connecting Nyamira, Siaya and parts of the Rift Valley makes it the ideal county for bolstering academic growth in the area, could the Cabinet Secretary apprise the Committee on measures if any being pursued by the Ministry to establish a public university in Homa Bay County?

**II. Questions under the Cabinet Secretary for the National Treasury**

**Questions to the Cabinet Secretary for Finance, Planning and Trade:**

**(i) Question No. 039/2015 by the Member for Makadara Constituency (The Hon. Benson Mutura, M.P):**

Could the Cabinet Secretary inform the Committee what steps the Government is taking to ensure that the economic interests of Kenyan investors in South Sudan affected by the non-convertibility of the Southern Sudan currency are restored and in particular explain the measures the Kenyan and South Sudanese Governments are taking to help convert the cash already accumulated by Jetlinkin Juba and subsequently enable the airline, which had already grounded its fleet, to resume operations?

**(ii) Question No. 040/2015 by the Member for Westlands Constituency (The Hon. Timothy Wanyonyi, M.P.):**

Could the Cabinet Secretary inform the Committee the current status of unclaimed financial assets in the country, and in particular, apprise Members on why the Unclaimed Financial Assets Authority has allegedly neglected its supreme mandate of ensuring that all asset holders make all reasonable efforts to locate and notify owners of their assets as provided for in the Unclaimed Financial Assets Act 2011 thereby causing untold suffering to families of owners of unclaimed assets who continue to wallow in poverty oblivious of the assets due to them; whether or not the Authority has published a list in a medium accessible to most people including the families of owners of unclaimed financial assets to enable them trace them; actions taken so far by both the Authority and the Ministry at informing families/ beneficiaries of unclaimed financial assets whose owners are either deceased or cannot be traced; measures in place to compel and ensure that all asset holders of unclaimed financial assets inform the Authority of the said assets, and punitive action being meted against non-compliance by asset holders?

**(iii) Question Nos. 051/2015 and 055/2015 by the Member for Emuhaya Constituency (The Hon. (Dr.) Wilber Ottichilo, M.P.):**

Could the Cabinet Secretary apprise the Committee on the current status of Fresh Produce Markets that were under the Economic Stimulus Programme during the 2012/2013 financial year, how much has been spent on them, the completion rate, the operational status, timelines for finishing the incomplete ones, and action to be taken against those who were responsible for the supervision and construction of the incomplete Markets?

**(iv) Question No. 055/2015 by the Member for Mvita Constituency (The Hon. Abdullswamad Shariff Nassir, M.P.):**

Could the Cabinet Secretary apprise the Committee on the current status of the Economic Stimulus Programme (ESP), and in particular, inform Members whether the funds allocated are still available, the timelines for completing all projects under the programme, whether an audit was carried out to verify that the projects were actually implemented, and the current status of individuals who were hired under this Programme?

**II. Questions under the Departmental Committee on Lands**

**Questions to the Cabinet Secretary for Land, Housing and Urban Development:**

**(i) Question Nos. 087/2015 by the Member for Emuhaya Constituency (The Hon. (Dr.) Wilber Ottichilo, M.P.)**

Could the Cabinet Secretary inform the Committee on when the Ministry intends to originate appropriate laws to prescribe the minimum and maximum land holding acreages in respect to private land; to regulate the manner in which any land may be converted from one category to another; to protect, conserve and consider access to all public land; and to enable the review of all grants or

dispositions of public lands to establish their propriety or legality as per Article 68 of the Constitution?

**(ii) Question No. 088/2015 by the Member for Sigor Constituency (The Hon. Philip L.R. Rotino, M.P.):**

Could the Cabinet Secretary apprise the Committee on the disputes resolution mechanism for disputed parcels of lands particularly those among neighbouring communities; the current ownership status of the 1,500-acre land in Sigor Constituency that is being claimed by residents of the neighbouring Marakwet East Constituency; reasons behind the protracted dispute; and the available avenues for resolving this stalemate?

**(iii) Question No. 089/2014 by the Departmental Committee on Lands, To be Moved by the Committee Chairperson (The Hon. Alex Muiru, M.P.):**

Could the Cabinet Secretary apprise the Committee on the status of ownership of the land registered as L. R. No. 3586/3 in Karen, Nairobi County?

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