



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, JULY 05, 2018

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Speaker
4. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communication-

Honourable Members, the Report of the Procedure and House Rules Committee that has just been tabled by the Deputy Speaker contains proposed amendments relating to Questions ordinarily answered by Cabinet Secretaries before the Departmental Committees.

Honourable Members, the procedure proposed by the Committee is not very different from the procedure obtaining now save to state that, in the procedure proposed, Members will have an opportunity to ask their questions on the floor of the House but the replies will be given by the particular Cabinet Secretaries in respective Committees. In this regard, may I invite all Members to familiarize themselves with the contents of the Report during the recess period in readiness for the actualization of this new procedure. The Procedure and House Rules Committee is convinced that the process is expected to increase the visibility of the House in addition to allowing members to play their oversight and deliberative roles more effectively as envisaged in Article 95 of the Constitution.

Honourable Members, I have also been notified by the Chairperson of the Liaison committee that Chairpersons of Departmental Committees together with the Leadership of the House, House Business Committee and indeed the Procedure and House Rules Committee will be retreating on or around 26th July, 2018 to discuss the operationalization of the new process and related matters.

I have also requested the Clerk of the National Assembly to put in place necessary administrative structures to facilitate smooth actualization of the new procedure. I thank you!

5. MESSAGES

The Speaker conveyed the following Messages –

(i) Message from the President on the nomination of persons for appointment as Chairperson of the Public Service Commission; and Chairperson and Members of the National Gender and Equality Commission

“Honourable Members, Pursuant to the provisions of Standing Order No. 42, I wish to convey the following two Messages from His Excellency The President relating to nomination of persons for appointment to the Offices of the Chairperson of the Public Service Commission; The Chairperson of the National Gender and Equality Commission and Members of the National Gender and Equality Commission.

In the First Message, H.E. The President conveys that, in exercise of powers conferred by Article 233(2) of the Constitution, Paragraph 3 of the First Schedule to the Public Service Commission Act (Act No. 10 of 2017), as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he nominates Mr. Stephen K. Kirogo for appointment as the Chairperson to the Public Service Commission.

In the Second Message, H.E. The President conveys that, in exercise of powers conferred by Article 250(2)(b) of the Constitution and section 11(6) of the National Gender and Equality Commission Act,(Act No.15 of 2011), as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, (Act No. 33 of 2011), he nominates the following persons for appointment to the respective offices in the National Gender and Equality Commission -

- (i) The Dr. Joyce Mwikali Mutinda as the Chairperson of the National Gender and Equality Commission; and
- (ii) Mr. Hon. Priscillah Nyokabi Kanyua, as Member of the National Gender and Equality Commission; and,
- (iii) Murithi J. Chomba Munyi, a person with disability, as Member of the National Gender and Equality Commission.

Honourable Members, H.E. the President therefore seeks the approval of this House on the nominees for appointment to the aforementioned positions.

Honourable Members, Standing Order 45 requires that, upon receipt of notification of nomination for appointments, such nomination shall stand committed to the relevant Departmental Committee of the House for consideration. Pursuant to the provisions of the said Standing Order therefore, and paragraph (3) of Standing Order 42 (*Messages from the President*), I hereby refer the Message relating to appointment of persons to the offices in the National Gender and Equality Commission to the Departmental Committee on Labour and Social Welfare to undertake the necessary approval hearings, while the nomination of the Chairperson of

the Public Service Commission will stand referred to the Departmental Committee on Administration and National Security.

Honourable Members, Paragraph 4(1) of the First Schedule of the Public Service Commission Act, 2017 and Section 11(7) of the National Gender and Equality Commission Act, 2011, requires the National Assembly to either approve or reject the nominees to the respective positions within Fourteen(14) and Twenty one (21) days respectively. In this regard, I wish to guide the two Departmental Committees and the House as follows:-

- (i) That the Committees should notify the nominee and the general public of the time and place for holding the approval hearings, in good time. The notification should therefore be made on Friday, July 6, 2018; and,
- (ii) That the Committees should thereafter commence the necessary approval hearings and submit their respective reports to the House within the statutory timelines.

Honourable Members, Following the resolution of the House on Tuesday, June 26, 2018, to alter the Calendar of the House, so that the House proceeds on recess on 6th July 2018. The period set by law for approval hearings will lapse while the House is on recess. The Committees are therefore at liberty to seek extension of the approval hearings from the House. I thank you!"

(ii) Message from the Senate on Passage, by the Senate of the County Governments (Amendment)(No.2) Bill (Senate Bill No. 7 of 2017), the National Flag, Emblems and Names (Amendment) Bill (Senate Bill No. 8 Of 2017) and the Assumption to the Office of the County Governor Bill (Senate Bill No. 1 Of 2018)

"Honourable Members, Standing Order 41(4) requires the Speaker to report to the House any Message(s) received from the Senate at the first convenient opportunity. In this regard, I wish to report to the House that on Wednesday, July 4, 2018, I received three Messages from the Senate regarding passage of various Bills on Thursday, June 21, 2018.

The First Message relates to the passage of the County Governments (Amendment)(No.2) Bill (Senate Bill No. 7 of 2017). Among other objectives, the Bill seeks *"to provide for the procedure for the disposal of a report of a Commission of Inquiry established under Article 192(2) of the Constitution as read together with section 123(4) of the County Governments Act, and to provide for the termination of a suspension of a county government under Article 192(4) of the Constitution."*

Honourable Members, the second Message is conveying the passage of the National Flag, Emblems and Names (Amendment) Bill (Senate Bill No. 8 of 2017). The Bill seeks *"to amend the National Flag, Emblems and Names Act to allow members of the public to fly the National Flag in their places of residence, work and business."*

Honourable Members, the last Message is on the passage of the Assumption of Office of the County Governor Bill (Senate Bill No. 1 of 2018). The Message states in part, that *"The Assumption of Office of the County Governor Bill (Senate*

Bill No. 1 of 2018) was published to provide for the procedure and ceremony for the assumption of the Office of Governor by the Governor-elect.”

Honourable Members, Standing Order 143(1) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of a Message from the Senate referring Bills to the National Assembly. Accordingly, I direct that the three Bills be read a First Time at the next Sitting.

Honourable Members, Paragraph (2) of Standing Order 143 provides that –

“Following First Reading, the Speaker shall, within reasonable time, pronounce his or her opinion contemplated under Article 114(2) of the Constitution.”

The opinion envisioned under Standing Order 143(2) is a pronouncement, by the Speaker, as to whether a Bill originating in the Senate is a ‘*Money Bill*’ in the terms of Article 114 of the Constitution. In this regard, I have examined the three Bills, in addition to the Urban Areas and Cities (Amendment) Bill (Senate Bill No. 4 of 2017) which was read a First Time on April 19, 2018, and determined that they are not Money Bills. The House shall therefore proceed with the consideration of the said Bills from the Senate in accordance with Standing Order 143(3).”

6. PETITIONS

The following Petitions were presented to the House -

(i) The Speaker conveyed the following Petition –

Honourable Members, Standing Order 225(2)(b) requires that the Speaker reports to the House any Petition other than those presented through a Member. I therefore wish to convey to the House that my office has received a Petition regarding the variation of boundaries of Mt. Elgon Forest Reserve.

Honourable Members, The Petition is signed by Mr. Keriako Tobiko, Cabinet Secretary for Environment & Forestry, and Ms. Farida Karoney, Cabinet Secretary for Lands & Physical Planning on behalf of the executive. The Executive is seeking the approval of the National Assembly for the alteration of the boundaries of Mt. Elgon Forest Reserve, pursuant to provisions of section 34 of the Forest Conservation and Management Act, 2016.

Section 34(1) of the aforementioned law states that-

34. (1) Any person may petition the National Assembly or the Senate, for the variation of boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest.

Section 34(5) and (6) further states that-

(5) If the relevant Committee, reports that it finds that the petition—

(a) does not disclose a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, no further proceedings shall be taken; or

(b) discloses a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, the National Assembly or the Senate shall vote on whether to approve the recommendation.

(6) If the resolution under subsection (5)(b) is supported by a majority of the members of the National Assembly or the Senate, present and voting, the Cabinet Secretary shall publish a notice in the Gazette.

Honourable Members, the two State Departments are seeking Parliamentary approval for degazettement of 4,607 Hectares comprising of Phases II and III of Chepyuk Settlement Scheme in the Mt. Elgon Forest Reserve within Cheptais Forest Station in Bungoma County. The purpose of the degazettement is to resettle the Soy (Sabaot) and Dorobo (Mosop) communities in the area to resolve historical land injustices, reduce security conflicts and spur local development.

In this regard Honourable Members, the two State Departments pray that:-

- (i) The National Assembly resolves that this Petition discloses a ground for the variation of the boundaries of a public forest; and
- (ii) The National Assembly, approves the alteration of the boundaries of Mt. Elgon Forest Reserve to allow for resettlement on Phase II and III of Chepyuk Settlement Scheme.

Honourable Members, A Petition of this nature is new to the House, being one that emanates from the Executive having been approved by the Cabinet. Allow me, therefore, to guide the House that, pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committees on Environment and Natural Resources and Lands for joint consideration. The Committees should guide the House, by way of a report, on whether the Petition satisfies the requirements of section 34 of the Forest Conservation and Management Act, 2016 relating to the grounds for variation of the boundaries of a public forest, having ensured sufficient public participation with relevant stakeholders as required by the law.

The Joint Committee has sixty (60) days within which to submit their report for consideration and decision by the House as required under section 34(5) of the Forest Conservation and Management Act and Standing Order 227(2).

- (ii)** The Member for Tharaka Constituency (Hon. George Murugara) presented a Petition on behalf of Union of Kenya Civil Servants of Tharaka Nithi County regarding non-payment of hardship allowances to public servants;
- (iii)** The Member for Kikuyu Constituency (Hon. Kimani Ichung'wah) presented a Petition on behalf of residents of Kikuyu Constituency regarding a disputed Plot in Nachu Ward; and
- (iv)** The Member for Starehe Constituency (Hon. Charles Njagua) presented a Petition on behalf of Nairobi Importers and Traders Association on Harassment by Government Officials from the Anti Counterfeit and Kenya Bureau of Standards (KEBS) under the guise of fighting Corruption;

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227(2)

7. PAPERS LAID

The following Papers were laid on the Table of the House –

- (i) Bi-Annual Report for the Commission on Administrative Justice for the period June-December, 2017;
- (ii) The Report of the Auditor General and Financial Statements of the Moi Teaching and Referral Hospital for the year ended 30th June, 2017.

(The Leader of the Majority Party)

- (iii) The Report of the Special Funds Committee to the 3rd Annual Institute of Certified Public Accountants of Kenya (ICPAK) Chapter Seminar, held in Johannesburg, South Africa from 8th to 12th May, 2018;

(Leader of Delegation - Hon. Alfred Agoi)

- (iv) The Second Report of the Procedure and House Rules Committee on the consideration of amendments to the Standing Orders;

(Hon. Moses Cheboi for Chairperson, Procedure and House Rules Committee)

- (v) The Reports of the Departmental Committee on Justice and Legal Affairs on consideration Petitions on-

- (a) introduction of a retirement age of 70 years for persons desirous at contesting for the presidential elections by Mohamud Sheikh;
- (b) change of the constitution to allow for equitable representation of electorate and fulfillment of gender parity in legislature by Mr. Ezekiel Njeru Namu; and
- (c) amendment of the Kenya School of Law act 2012 Second Schedule by Peter Githaiga Munyeki.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

- (vi) Preliminary Report of the Joint Committee on Trade, Industry and Cooperatives and that of Agriculture and Livestock, on the ongoing inquiry into the alleged importation into the country of contraband and contaminated sugar.

(Hon. Kanini Kega, Co-Chairperson)

8. NOTICES OF MOTION

The following Notices were given –

- (i) THAT, this House adopts the Second Report of the Procedure and House Rules Committee on the consideration of the amendments to the Standing Orders, laid on the Table of the House on Thursday, July 05, 2018;

(Hon. Moses Cheboi for Chairperson, Procedure and House Rules Committee)

- (ii) **THAT**, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011 relating to extension of period for consideration of nominees for appointment to a public office and paragraph 6(1) in the First Schedule to the Public Service Commission Act, this House resolves to extend the period for consideration of the nominee submitted by H.E. the President for appointment to the office of Chairperson of the Public Service Commission by a **further period of fourteen (14) days** from 19th July, 2018.

(Chairperson, Departmental Committee on Administration and National Security)

- (iii) **THAT**, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011 relating to extension of period for consideration of nominees for appointment to a public office and Section 11(6) of the National Gender and Equality Commission Act, this House resolves to extend the period for consideration of the nominees submitted by H.E. the President for appointment to the offices of Chairperson and Members of the National Gender and Equality Commission by a **further period of fourteen (14) days** from 26th July, 2018.

(Vice Chairperson, Departmental Committee on Labour and Social Welfare)

9. STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)

Pursuant to the provision of Standing Order 44(2) (a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, July 24, 2018.

10. PERSONAL STATEMENT PURSUANT TO STANDING ORDER 84

Pursuant to the provision of Standing Order 84, the Member for Subukia (Hon. Samuel Gachobe) issued a personal statement regarding compensation of the victims of the Solai Dam tragedy.

11. STATEMENT PURSUANT TO STANDING ORDER 44(2)(c)

- (i) The Member for Vihiga County (Hon. Beatrice Adagala) requested a Statement from the Chairperson, Departmental Committee on Transport, Public Works and Housing regarding detrimental effects of road construction on the residents of Mwoki-Masana area in Vihiga County;
- (ii) The Member for Wajir East (Hon. Rashid Kassim Amin) requested a Statement from the Chairperson of Departmental Committee on Administration and National Security regarding extra-judicial killings in Wajir County;

(iii) The Joint Chairperson of the Joint Departmental Committee on Trade, Industry and Cooperatives made a Statement on the Progress Report on the inquiry into the alleged importation of contraband sugar in country. And the House being of the opinion that the Joint Committee's preliminary findings were not satisfactory, sought the indulgence of the Speaker to recommit the matter to the Committee to undertake through inquiry and make clear recommendations;

Thereupon, the Speaker directed that the Committee concludes the inquiry and tables a comprehensive Report in the week commencing Tuesday, July 24, 2018.

12. COMMITTEE OF WAYS AND MEANS: APPROVAL OF PROVISIONAL TAXATION MEASURES FOR THE FY 2018/2019

Order read;

THAT, pursuant to the provisions of Articles 94(5) and 210(1) of the Constitution, this House-

(a) **approves** the provisional collection of taxes relating to:

- (i) Income Tax;
- (ii) Value Added Tax;
- (iii) Excise Duty;
- (iv) Miscellaneous Fees and Levies; and,

(b) **resolves** that, in accordance with section 3 of the Provisional Collection of Taxes and Duties Act (Cap 415), the collection commences on the dates specified in the Provisional Collection of Taxes and Duties Order, 2018 (*Legal Notice No. 128 of 2018*)

(The Leader of the Majority Party)

Rising in his place on a Point of Order pursuant to Standing Order 83 the Member for Ruaraka Constituency (Hon. Tom Kajwang') sought the Speakers guidance on whether the Motion was procedurally before the House. He claimed that the Motion was procedurally defective as it sought to authorize collection of revenue through subsidiary legislation instead of a statute and that subsidiary legislation is only considered in the House upon a Motion to annul, not approve;

Having considered the matter, the Speakers stood down debate on the Motion and directed that the Instruments be referred to the Departmental Committee on Finance and National Planning for consideration.

And the time being twenty five minutes past six O'clock, the Speaker adjourned the House without Question put pursuant to the Standing Orders.

12. **HOUSE ROSE** - twenty five minutes past six O'clock

MEMORANDUM

The Speaker will take the Chair on Tuesday, July 24, 2018 at 2.30 p.m.

--x--