



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – SECOND SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**THURSDAY, JUNE 07, 2018**

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – Deputy Speaker
4. **PAPERS LAID**

The following Papers were laid on the Table –

- a) The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June, 2017 and the certificates therein: -
  - i) Public Service Commission;
  - ii) Kenya Local Loans Support Fund;
  - iii) Receiver of Revenue – the Judiciary;
  - iv) Kenya Citizens and Foreign Nationals Management Service;
  - v) State Department for Interior;
  - vi) State Department of Devolution; and
  - vii) State Department of East African Community Integration.
- b) The Reports of the Auditor-General and Financial Statements in respect of the following Constituencies for the year ended 30<sup>th</sup> June, 2016 and the certificates therein: -
  - i) Teso South Constituency;
  - ii) Ndhiwa Constituency;
  - iii) Funyula Constituency;
  - iv) Webuye Constituency;
  - v) Mt. Elgon Constituency;
  - vi) Budalangi Constituency;
  - vii) Kabuchai Constituency;
  - viii) Turkana East Constituency;
  - ix) Karachuonyo Constituency; and
  - x) Mumias East Constituency.

*(The Leader of Majority Party)*

- c) Report of the Departmental Committee on Trade, Industry and Cooperatives on the Sacco Societies (Amendment) Bill, 2018

*(Chairperson, Departmental Committee on Trade, Industry & Cooperatives)*

- d) Report of the Departmental Committee on Agriculture and Cooperatives on the consideration of public petition to review Crop Act No. 16 of 2013 to recognize bamboo as scheduled crop.

*(Chairperson, Departmental Committee on Agriculture and Livestock)*

- e) Delegation Report on the 2018 Annual World Bank Conference on Land and Poverty held in Washington DC on 19<sup>th</sup> to 23<sup>rd</sup> March, 2018; and

- f) Report into the inquiry of alleged irregularities in the compensation for part of LR. No. 7879/4 to Ms. Afrison Import Export Ltd and Huelands Ltd by the National Land Commission.

*(Chairperson, Departmental Committee on Lands)*

5. **NOTICES OF MOTION**

The following Notices were given –

- (i) THAT, this House adopts the Delegation Report on the 2018 Annual World Bank Conference on Land and Poverty held in Washington DC on 19<sup>th</sup> to 23<sup>rd</sup> March, 2018, laid on the Table of the House today, Thursday, 07 June 2018; and
- (ii) THAT, this House adopts Report into the inquiry of alleged irregularities in the compensation for part of LR. No. 7879/4 to Ms Afrison Import Export Ltd and Huelands Ltd by the National Land Commission, laid on the Table of the House today, Thursday, 07 June 2018

*(Chairperson, Departmental Committee on Lands)*

6. **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, June 12, 2018.

7. **STATEMENT PURSUANT TO STANDING ORDER 44(2) (c)**

Pursuant to the provision of Standing Order 44(2)(c), the Member for Kiminini (Hon. Chris Wamalwa) sought a statement regarding the crash of an airplane flying from Kitale.

8. **MOTION – REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE BUDGET ESTIMATES FOR THE FINANCIAL YEAR 2018/2019 (General debate – 3<sup>rd</sup> Allotted Day)**

Motion made and Question proposed –

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Estimates for the National Government, the Judiciary and Parliament for the Financial Year 2018/2019, laid on the Table of the House on Tuesday, 5th June, 2018 and pursuant to the provisions of section 39 of the Public Finance Management Act, 2012, Article 221 of the Constitution of Kenya and Standing Orders 235 and 239, **approves** the issuance of a sum of **Kshs.1,742,291,667,908** from the Consolidated Fund to meet the expenditure during the year ending 30th June 2019 in respect of the Votes, as contained in the First Schedule.

*(Chairperson, Budget and Appropriations Committee - 06.06.2018)*

Debate interrupted on Wednesday, 06.06.2018 (Afternoon Sitting) resumed;

*(Change of Chair from the Speaker to the First Chairperson)*

Amendment proposed –

**THAT**, the Motion be amended by inserting the following words immediately after the word “Schedule”–

**“subject to any amendments in the Committee of Supply.”**

*(Chairperson, Budget and Appropriations Committee)*

Question of the amendment proposed –

Debate arising;

Question to the amendment put and agreed to;

Debate on the Motion as amended resumed;

Mover replied;

Question put and agreed to

**Resolved accordingly -**

**THAT**, this House adopts the Report of the Budget and Appropriations Committee on the Budget Estimates for the National Government, the Judiciary and Parliament for the Financial Year 2018/2019, laid on the Table of the House on Tuesday, 5th June, 2018 and pursuant to the provisions of section 39 of the Public Finance Management Act, 2012, Article 221 of the Constitution of Kenya and Standing Orders 235 and 239, **approves** the issuance of a sum of **Kshs.1,742,291,667,908** from the Consolidated Fund to meet the expenditure during the year ending 30th June 2019 in respect of the Votes, as contained in the First Schedule, subject to any amendments in the Committee of Supply.

9. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2017)**

Motion made and Question proposed –

**THAT**, this House do agree with the Report of the Committee of the Whole House on its consideration of the Energy Bill (National Assembly Bill No. 50 of 2017)

*(Chairperson, Departmental Committee on Energy)*

Question put and agreed to.

Motion made and Question proposed –

THAT, the Energy Bill (National Assembly Bill No.50 of 2017) be now read a Third Time

Question put and agreed to.

Bill read a Third Time and **passed.**

10. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

**IN THE COMMITTEE**

The First Chairperson in the Chair

**The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 48 of 2017)**

*(Resumption of consideration of the Bill interrupted on 25.04.2018)*

**INSERTION OF A NEW PART**

**THAT**, the Bill be amended by inserting the following new Part immediately after Part VIII—

**PART VIIIA**

**MIDSTREAM AND DOWNSTREAM PETROLEUM**

*Licensing*

Replacement of a licence, permit or certificate.

**99J.**(1) A licensee or permit holder may apply for replacement of a licence, permit or certificate.

(2) A licensee or permit holder may apply for replacement of a licence, permit or certificate where it is lost, destroyed or defaced.

(3) The licensing authority shall, upon payment of the prescribed fee, issue a duplicate licence, permit or certificate to the licensee.

Transfer of a licence or permit.

**99K.** (1) A licensee shall not transfer or otherwise divest any rights, powers or obligations conferred or imposed upon the licensee by the licence or permit without the consent of the licensing authority.

(2) The licensing authority may, on application by any of the following persons, transfer a licence or permit—

(a) in the case of a death of the licensee, to the legal representative;

(b) in the case of the bankruptcy of the licensee or assignment for the benefit of the licensee's creditors generally, to the lawfully appointed trustee or assignee;

(c) in the case of a corporation in liquidation, to the lawfully appointed liquidator;

(d) in any case where the licensee becomes subject to a legal disability, to any person lawfully appointed to administer the licensee's affairs; or

(e) in the case of voluntary transfer of the undertaking, to the new owner of the undertaking.

(3) The licensing authority shall satisfy itself of the legal, technical and financial competence of the transferee to carry out the undertaking.

(4) The transferee shall undertake in writing to comply with the conditions of the licence or permit.

(5) The licensing authority shall not withhold any consent to any application to transfer unless it has reason to believe that public interest is likely to be prejudiced by the transfer.

**(99L.** (1) The licensing authority shall keep a register, in such form as it may determine, of all licenses and permits granted and shall record therein, in respect of each licence or permit—

Register of  
licences  
and  
permits.

(a) the particulars required under sections 99B and 99O;

(b) particulars of any duplicate issued or any amendment of the licence or permit made under sections 99F and 99J;

(c) particulars of any suspension or revocation of the licence or permit under sections 99I and 99Q; and

(d) such other particulars as may be prescribed.

(2) Subject to subsection (3), any person may, during official working hours, and upon payment of the prescribed fee, inspect the register of licences and permits.

(3) Notwithstanding subsection (2), a person who is—

(a) a member of the Kenya Police Service or a public officer acting in the course of his duty; or

(b) an employee of the licensing authority or person authorised in writing by the Authority.

may inspect the register without payment of any fee.

Appeal against action of a licensing authority.

**99M.** A person aggrieved by the action of the licensing authority in—

(a) refusing to grant or renew a licence, permit or certificate or revoking a licence, permit or certificate; or

(b) imposing conditions on a licence, permit or certificate; or

(c) refusing to replace or amend a licence, permit or certificate,

may, within thirty days of receipt of written notification, appeal to the Tribunal.

Construction permits.

**99N.** (1) A person who intends to construct a pipeline, refinery, bulk storage facility, retail dispensing site, centralized gas reticulation system or designated parking place for petroleum tankers shall, before commencing such construction, apply in writing to the licensing authority for a permit to do so.

(2) An application under subsection (1) shall—

(a) specify the name and address of the proposed owner;

(b) be accompanied by the registration documents of the proposed beneficial owner;

(c) be accompanied by a copy of detailed layout plans and specifications prepared by a professional engineer;

(d) in the case of a pipeline—

(i) specify the points, between which the proposed pipeline is to run;

(ii) state what products are to be transported by the proposed pipeline.

(e) in the case of a refinery, bulk liquefied petroleum gas, or natural gas facility specify the location, type and capacity;

(f) be accompanied by an environment and social impact assessment licence; and

(g) contain such other details as may be necessary.

(3) The licensing authority shall consider every application received under this section and shall, if satisfied that the applicant meets the prescribed requirements, grant to the applicant, within forty five days, the permit to construct a pipeline, refinery, bulk storage facility, bulk liquefied petroleum gas facility, natural gas facility, retail dispensing site, centralised gas reticulation system or designated parking, as the case may be.

(4) A permit shall be subject to such conditions as maybe prescribed.

(5) Where the licensing authority refuses to grant a permit under this section, it shall notify the applicant of such refusal specifying the reasons thereof and shall deliver such notice to the applicant.

Conditions for granting permits.

**990.** (1) The licensing authority shall, before issuing a permit under section 99B take into account all relevant factors, including but not limited to—

(a) the relevant Government policies and guidelines;

(b) compliance with the relevant environmental, safety, planning, and maritime laws, County Government laws;

(c) the relevant Kenya Standard or in the absence of such standard, any other standard recommended by the licensing authority in consultation with the Kenya Bureau of Standards;

(d) the technical and financial capability of the applicant and methods of financing the proposed pipeline, refinery, bulk storage facility, or retail dispensing site; and

(e) any other matter which, in the opinion of the licensing authority, may be affected by the granting or the refusal of the permit being sought.

(2) A permit shall contain such terms and conditions as the licensing authority may consider appropriate, including but not limited to the—

(a) duration of the permit;

(b) person authorised to execute the works;

(c) area in which the works shall be executed; and

(d) conditions to be satisfied before any works authorised by the permit are used, which may include a requirement for the execution of further works.

(3) Where a permit contains conditions prescribed in subsection (2) (d), no person shall, before the conditions are satisfied, use any works the execution of which was authorised by the permit, except to the extent specified in a notice given by the licensing authority to the licensee specifying the extent to which the works may be used, notwithstanding that some of the conditions have not been satisfied and such permit may, at any time, be revoked by the licensing authority in a subsequent notice in the *Gazette*.

(4) A notice given by the licensing authority under subsection (3) shall be conclusive evidence for the purposes of this Act that those conditions have been satisfied.

(5) Where a permit referred to in subsection (3) is cancelled or otherwise ceases to be in force prior to the completion of the authorised works, the licensee shall, to the extent of partially executed works, be deemed to have satisfied the prescribed conditions.

Exemption from the requirement for a permit.

**99P.**Notwithstanding any other provision of this Act—

(a) emergency works for the construction of a pipeline, may be executed without any authorisation by the licensing authority:

Provided that as soon as is reasonably practicable and in any event not later than sixty days after the works have commenced or have been executed, the owner of the petroleum logistics facility shall inform the licensing authority in writing of the works executed attaching copies of detailed construction drawings of such construction works and the route taken or intended to be taken by the petroleum logistic facility;

(b) no permit shall be required for the construction of a pipeline within a storage depot, a pipeline facility or refinery.

Suspension or revocation of a construction permit.

**99Q.** (1) Subject to subsection (2), the licensing authority may, by notice in the *Gazette*, suspend or revoke a construction permit if any term or condition thereof has not been complied with within the prescribed period.



(2) Where the licensing authority intends to revoke or suspend a permit under this section, it may, at least twenty-one days before the date of the intended revocation or suspension, notify the holder of the permit of such intention, specifying the reasons thereof, and shall take every precaution to ensure fairness in the exercise of this power.

(3) The licensing authority may in writing, reinstate a permit revoked or suspended under subsection (1) if satisfied that the reasons for the revocation or suspension no longer exist.

**99R.**If, after a permit to construct a pipeline, a refinery, a bulk storage facility or a retail dispensing site has been granted, the execution of the works has not commenced at the expiry of twelve months from the date on which the permit was granted, or at the expiration of any extended period which the licensing authority may allow, the permit shall cease to have effect.

Validity of permits.

**99S.**(1) Where a person has constructed a pipeline, refinery, bulk storage facility, retail dispensing site or a centralized gas reticulation system without a permit, the licensing authority may-

Destruction of illegal construction.

- (a) give that person a notice of twenty one days to obtain the permit;
- (b) direct that person to stop the construction; or
- (c) direct that person to decommission the pipeline, refinery, bulk storage facility, retail dispensing site or a centralized gas reticulation system.

(2) If the owner or occupier of the facility in sub section (1) fails to remove the works, the licensing authority shall decommission the works at the cost of that person.

(3). Notwithstanding subsection (1), any person who constructs a pipeline, refinery, bulk storage facility, retail dispensing site or a centralized gas reticulation system without a permit is liable on conviction to a fine of not less than one million shillings.

**99T.**(1) A person who offers for sale in Kenya or transports or stores petroleum meant for use in Kenya shall ensure that the specifications of such petroleum conforms to the relevant Kenya Standard, but where no such standard exists, the relevant international standards approved by the Kenya Bureau of Standards:

Standards for petroleum.

Provided that no person shall divert to sell in Kenya, goods destined for other markets.

(2) A person who—

- (a) sells or offers for sale petroleum not conforming to the relevant Kenya Standard or any other standard approved by the Kenya Bureau of Standards; or
- (b) stores, transports, or sells or offers for sale adulterated petroleum,

commits an offence and shall on conviction, be liable to a fine of not less than five million shillings, or to a term of imprisonment of not less than two years, or to both.

(3) A person who diverts with intent to sell in Kenya petroleum destined for other markets commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings, or to a term of imprisonment of not less than five years, or to both.

Maintenance of minimum operational stocks.

**99U.**It shall be the duty of a person licensed to import petroleum to maintain such quantities of petroleum and at such locations as may be prescribed by the Cabinet Secretary on the recommendation of the Authority.

Contracts for common user facilities.

**99V.**(1) A person licensed to operate a common user facility shall provide non-discriminatory open access to its facility for use by any licensee or person on payment of fair and reasonable charges as shall be prescribed in regulations made under this Act.

(2) A licensee shall promptly evacuate its petroleum products held by a common user logistic facility in accordance with this Act.

(3) Where any licensee wilfully delays to comply with the terms of the contract pursuant to sub-section (1), the Authority may compel the licensee to evacuate the petroleum products when appropriate and in the event of the licensee failing to comply with such direction the Authority may order disposal of such products held by a common user logistic facility and impose such penalties and fines as may be prescribed in regulations.

Forms of contract for common user facilities.

**99W.**(1) Every person licensed to operate a common user facility shall use a form of contract approved by the Authority which shall set out the rights and responsibilities of the licensee and users of the facility, as the case may be.

(2) In approving a form of contract under subsection (1), the Authority shall satisfy itself that such form of contract has fair and reasonable provisions dealing with issues, including but not limited to—

- (a) limitation of liability of the licensee;
- (b) termination and suspension provisions;

- (c) account and meter deposits;
- (d) metering; and
- (e) complaint handling and dispute resolution.

Power of the Cabinet Secretary to provide strategic petroleum stocks.

**99X.**The Cabinet Secretary may undertake in whole or in part, the provision of financing, procurement, storage, maintenance and management of petroleum strategic stocks.

Compliance with environmental, health and safety laws.

**99Y.**(1) A person engaged in petroleum business shall comply with the applicable environmental, health and safety laws.

(2) In the event of a fire, explosion, oil spill, injury or fatality occurring in the course of operating a petroleum logistics facility, transportation or sale of petroleum, either by accident or through negligence, the operator or person transporting or selling the petroleum shall forthwith clean up the polluted or damaged environment, at the operator’s own expense, to the satisfaction of the licensing authority and any other relevant authority:

Provided that any person engaged in the storage, transportation or sale of petroleum and petroleum products shall have an oil clean-up plan in compliance with the National Oil Spill Policy, relevant environmental health and safety regulations or guidelines.

(3) If the operator or person transporting or selling petroleum fails, or unreasonably delays, to carry out the work referred to in subsection (2), the licensing authority may cause any work not carried out to be executed at the expense of the said operator or person transporting or selling the petroleum.

(4) Nothing contained in this section shall be construed as relieving the operator or person transporting petroleum from any liability in respect of any loss or damage caused by his failure to comply with safety measures as required in subsection (5).

(5) A person transporting petroleum by road, rail, coastal or inland waters, pipeline or any other mode shall institute measures to ensure that their mode of transportation is safe.

(6) The licensing authority may, at any time, require the operator of a facility or a transporter to show that he is in compliance with the provisions of this section.

Designated parking for petroleum tankers.

**99Z.**(1) It shall be the duty of every County Government to designate or provide a place or places exclusively reserved for parking of petroleum tankers.

(2) A person who is in charge of or in control of any petroleum tanker and parks it outside a designated parking area for petroleum tankers commits an offence and shall on conviction, be liable to a fine not exceeding one hundred thousand shillings or to a term of imprisonment of six months or to both.

*(Chairperson, Departmental Committee on Energy)*

Question of the amendments proposed;

Debate arising;

Question put and agreed to;

New Clauses 99J, K,L, M, N, O, P, Q, R, S, T, U, V, W, X, Y and Z  
- as amended agreed to

Offences and attempted offences.

**99AA.**(1) A person who—

(a) contravenes any provisions of section 99U on maintenance of minimum operational stock of petroleum;

(b) being the owner or operator of a refinery, pipeline, bulk liquefied petroleum gas or natural gas facility, service station, filling station or storage depot or transporter of petroleum, fails to institute appropriate environmental, health or safety control measures;

(c) being the owner of a pipeline, refinery or bulk liquefied petroleum gas or natural gas facility, contravenes the provisions of this Act or any regulations made thereunder relating to the construction or operation of a pipeline, refinery or bulk liquefied petroleum gas or natural gas facility or regulations thereof;

(d) vandalises, destroys, or interferes in any manner or illegally interconnects with such pipeline;

(e) illegally acquires, handles or is in possession of any petroleum products;

(f) maliciously misinforms the public leading to economic sabotage;

- (g) who not being an owner of any petroleum pipeline plant equipment or auxiliaries illegally acquires, handles or is in possession of any petroleum pipeline plant, equipment auxiliaries;
- (h) who trespasses or encroaches on to any petroleum pipeline wayleaves or installations;
- (i) who illegally acquires any interest in public land set aside for petroleum infrastructure projects;
- (j) being the owner of a retail dispensing site or storage depot, contravenes the provisions of this Act relating to the construction or operation of a retail dispensing or site storage depot;
- (k) being the owner or operator of a bulk storage facility for petroleum products, service station or storage depot, or being the owner of any petroleum stocks, hoards petroleum products;
- (l) owns or operates an unlicensed petroleum or gas storage, filling or handling facility;
- (m) refills, rebrands, trades or otherwise deals with liquefied petroleum gas cylinders of another licensee for gain without the said licensee's prior written consent;
- (n) being the owner of a retail dispensing site, under dispenses or sells above any price that may be recommended by licensing authority Cabinet Secretary from time to time;
- (o) constructs any facility defined in section 99N without obtaining a construction permit;
- (p) is in charge or in control of a petroleum tanker transporting or carrying adulterated petroleum or discharges export petroleum in the country;
- (q) owns a petroleum tanker transporting or carrying adulterated petroleum;

commits an offence and shall on conviction, be liable to a fine of not less than:

- (i) one million shillings, or a term of imprisonment of not less than one year, or to both such fine and imprisonment; if the offence relates to paragraphs (a), (h), (k) and (p) or
- (ii) ten million shillings, or a term of imprisonment of not less than five years, or to such fine and imprisonment, if the offence relates to paragraphs (b), (c), (d) (e), (f), (g), (i), (j), (l), (m), (n), (o) and (q).

(2) A person who attempts to do any such thing as mentioned in subsection (1) commits an offence and shall on conviction, be liable to a fine of not less than—

- (a) five hundred thousand shillings or a term of imprisonment of not less than six months or to both such fine and imprisonment if the offence relates to sub-section (1) (h); and
- (b) five million shillings or a term of imprisonment of not less than three years or to both such fine and imprisonment if the offence relates to sub-sections (1) (d) (e), (f), (i), (j), and (m).

Contraventions by petroleum carrying ships.

**99BB.**(1) The owner or master of any ship carrying cargo, any part of which consists of petroleum, who fails to give notice to the port authorities upon entering a port, shall, on conviction, be liable to a fine of not less than ten million shillings, or to a term of imprisonment of not less than two years, or to both.

(2) The owner or master of any ship carrying cargo, any part of which consists of petroleum shall comply with any law relating to the transportation of petroleum.

(3) A person who, while within Kenya’s Exclusive Economic Zone and Outer Continental Shelf, discharges or allows to escape into the –

- (a) petroleum or water mixed with petroleum;
- (b) water from bilges or tanks;
- (c) water used for flushing pipes and connections; or
- (d) sand used to absorb petroleum,

commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings, or to a term of imprisonment of not less than five years, or to both such fine and imprisonment and be responsible, at his or her own cost, for cleaning the water and restoring it to its original status.

(4) The government or a relevant agency shall as is reasonably practicable restore the environment to its former condition and such costs shall be recoverable from the owner or master of ship.

**99CC.**The Cabinet Secretary may, on the recommendation of the Authority , make regulations—

Regulations for downstream petroleum.

- (a) defining the kind of petroleum to which the regulations shall apply, and dividing petroleum into classes or categories and making different provisions with regard to such classes or categories;
- (b) providing for the importation, refining, exportation, landing, loading, shipping, transportation, storage, wholesale and retail of petroleum and prescribing a system of licensing for the purposes aforesaid, the manner in which application for any such licence shall be made, the conditions of licence, the authorities which may grant such licences, the fees which may be charged and any other matters incidental thereto;
- (c) setting, reviewing and adjusting tariffs and charges for common user storage facilities and refining of petroleum;
- (d) providing for importation of petroleum through open tendering system and the manner in which such system shall operate;
- (e) providing for maintenance of minimum operational stocks and procedures thereof;
- (f) providing for maintenance of strategic stocks and procedures thereof;
- (g) providing for the mode of sale, metering, documentation and display of prices of petroleum in retail dispensing sites and depots;
- (h) providing for environmental, health and safety standards associated with the handling, storage and use of petroleum;
- (i) providing for notice to be given by the owner or master of any ship entering a port with petroleum, and for ascertaining the quantity and specification of any petroleum on board any such ship;
- ((j) determining the places at which, and the conditions on and subject to which, petroleum may be imported, offloaded, landed, stored, loaded or transhipped;
- (k) providing for the delivery to such officer as may be specified, samples of petroleum landed or intended to be landed and for the testing of such sample;
- (l) providing for the type and location of the premises in respect of which licences to possess petroleum may be granted, the inspection of premises so licensed and the taking of samples and the testing of petroleum found thereon;

- (m) governing the design, construction and operation of pipelines, refineries, bulk liquefied petroleum gas facilities, retail dispensing sites, storage depots and providing for the protection of property and the environment and the safety of the public in the construction and operation thereof;
- (n) governing the design and construction of vehicles to be used in the transportation of petroleum by road, rail, inland or coastal waters;
- (o) prohibiting or restricting the carriage of goods and passengers in vessels carrying petroleum;
- (p) prescribing the quantity of petroleum that may be conveyed at any one time or in any one vehicle;
- (q) prescribing the precautions to be observed in the transportation of petroleum, in the manner of packing and the mode and time of transit and in the loading and unloading of vessels used for such transportation;
- (r) in consultation with the body responsible for standards, prescribing apparatus for testing petroleum, the tests to be applied and the manner in which tests are to be carried out;
- (s) in consultation with the body responsible for standards, appointing inspectors and agents for the testing and examination of petroleum and prescribing their powers and duties;
- (t) prescribing the marking of fuels and categories of the petroleum in which such marking shall be carried out;
- (u) prescribing for the provision of petroleum data and information to the Authority ;
- (v) providing for the development and coordination of a National oil spill response plan including measures to prevent oil spills and a mechanism for compensation in the event of an oil spill;
- (w) reviewing and approval of contracts on third party access to midstream petroleum infrastructure on reasonable terms and conditions;
- (x) reviewing and approval of contracts on the use and access of petroleum logistic facilities;
- (y) determining the maximum wholesale and retail prices of petroleum and petroleum products;
- (z) prescribing guidelines and standards to be applied by all licensing authorities to ensure uniform standards of operation in the sector; and



(aa)governing the qualification and certification of petroleum road tanker drivers;

Licensee to furnish information.

**99DD.**It shall be the duty of every licensee to furnish to the licensing authority at such times and in such form and manner, such information as the licensing authority may, in writing, require.

(cc) on the joint procurement of petroleum products;

False information.

**99EE.** A licensee who makes a false statement or a statement which he has reason to believe is untrue, to the Cabinet Secretary, or to the Authority, committee, agent or an officer acting on behalf of the Authority, as required generally for the better carrying out of the objects and purposes of this Act, shall be liable to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both.

Disclosure of information.

**99FF.**Information obtained under section 99EE relating to any matter shall not be published or otherwise disclosed to a third party without prior consent in writing from the person from whom the information was obtained—

Provided that nothing in this section shall restrict—

(a) the disclosure of such information—

- (i) to the Cabinet Secretary for the time being responsible for petroleum;
- (ii) to any officer or authority having functions in relation to petroleum, policy development or economic planning of petroleum business in Kenya; and
- (iii) in furtherance of a right to a person as provided for under the Constitution;

(b) the use of such information in any manner, which the Authority deems necessary or expedient in connection with the objects of this Act.

Licensing authorities not to discriminate.

**99GG.** While discharging its functions and exercising its powers under the Act, a licensing authority shall ensure that no particular person is given undue preference or subjected to any undue disadvantage.

Prosecution of offences.

**99HH.** The Director Public Prosecutions shall, on the request of the Commission, appoint any officer of the Commission or an advocate of the High Court to be a public prosecutor for the purposes of prosecuting offences under this Act.

Consolidated Energy Fund.

**99II.** (1) The Cabinet Secretary shall establish the Consolidated Petroleum Fund to cater for strategic petroleum reserve.

(2) The sources of funds shall be—

(a) appropriations from Parliament;

(b) contributions from the petroleum sector players;

(c) Government securities and corporate bonds;

(d) recovered assets from proceeds of crime in the petroleum sector;

(e) grants, gifts and donations; and

(f) monetary sanctions imposed by the Authority.

No. 18 of 2012

(3) For the avoidance of doubt, the fund shall be managed in accordance with the Public Finance Management Act.

(4) The Cabinet Secretary may prescribe regulations for the management of the Fund.

*(Chairperson, Departmental Committee on Energy)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clauses 99II - as amended agreed to

First Schedule - agreed to

Second Schedule - agreed to

Clause 2 - amendment proposed -

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

(a) by inserting the following new definitions in their proper alphabetical sequence—

“adulterated petroleum” means any mixed refined petroleum products that alter product specifications detailed in the applicable Kenya Standards;

“agent” means a person appointed in writing by the Authority to perform any of its functions;

“building” has the meaning assigned to it under the relevant written law;

“consumer” means any person who is supplied or entitled to be supplied with petroleum;

“danger” means risk to the environment, health, life, person or property of anyone from shock, fire or otherwise arising from the exploration, production, importation, exportation, transportation, refining, storage and sale of petroleum;

No 15 of  
2007.

“factory” has the meaning assigned to it under the Occupational Safety and Health Act;

Cap. 496.

“Kenya Standard” means a specification or code of practice declared by the Council under the Standards Act.

“licence” means any document or instrument in writing granted under this Act, to any person authorizing the importation, exportation, refining, storage and sale of petroleum;

“licensee” means a holder of any licence issued under this Act;

“licensing authority” means any person or body, including the Authority, with powers to grant, revoke or suspend a licence under this Act;

“liquefied petroleum gas” means commercial propane, commercial butane, commercial pentane and mixture thereof as specified in the relevant Kenya standard;

“minimum operational stocks” means the amounts of petroleum prescribed by the Cabinet Secretary on the recommendation of the Authority under section 99U;

“open access” means the non-discriminatory provision for the use of common user petroleum logistics facility by any licensee or consumer;

“open tendering system” means the mode of procurement of petroleum products in Kenya whereby the lowest bidder on any given product is allowed to import on behalf of all the other oil marketing companies;

“person” means any natural or juridical person;

“petroleum business” means a concern carrying on the importation, exportation, refining, storage, transportation, supply or sale of petroleum;

“refine” means to process petroleum crude in a refinery in order to yield petroleum products;

“refined petroleum products” means the products yielded from the refining of petroleum;

“refinery” means a distillation plant for refining of petroleum crude to yield petroleum products;

“retail dispensing site” means premises where petroleum is stored in bulk in one or more tanks and dispensed to consumers for their own use and includes filling and service stations;

“retail” means—

- (a) selling or offering to sell petroleum to a consumer;
- (b) acting as agent or broker for a retailer with respect to the sale or offering for sale of petroleum; or
- (c) acting or offering to act as an agent or broker for a consumer with respect to the sale or offering for sale of petroleum;

“retail supply licence” means any document or instrument authorizing a person to supply petroleum in the manner described in such document or instrument to any premises and such licence shall also entitle the licensee to receive a bulk supply from another licensee;

“social impact assessment” means a method of analysing the impacts of a proposed activity, project or plan on the social aspects of the environment which include, without limitation, the way —

- (a) people cope with life through their economy, social systems, and cultural values;
- (b) people use the natural environment, for subsistence, recreation, spiritual activities and cultural activities;
- (c) people use the built environment for shelter, making livelihoods, industry, worship, recreation and gathering together;
- (d) communities are organised and held together by their social and cultural institutions and beliefs; and
- (e) of life that communities value as expressions of their identity;

“specification” has the meaning assigned to it in the Standards Act;

“storage depot” means premises consisting one or more tanks for storing petroleum;

“strategic environmental assessment” means a formal and systematic process to analyse and address the environmental effect of policies, plans and programmes and other strategic initiatives;

“strategic stocks” means petroleum kept for purposes of ensuring security of supply;

“street” includes any way, road, lane, square, court, alley, passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge, or causeway;

“undertaking” means any business undertaken pursuant to a licence or a permit and includes all the assets and liabilities from time to time constituting or belonging or appertaining to such business, whether public or private, for the importation, exportation, refining, transportation, storage or supply of petroleum but does not include an undertaking which the Authority in consultation with the Cabinet Secretary, by statutory instrument, declares not to constitute an undertaking for the purposes of this Act;

“vandalise” means to commit any wilful, negligent, reckless or malicious act which destroys or damages petroleum infrastructure.

“works” means pipelines, machinery, lands, buildings, structures, earth works and water works, and includes any apparatus or things of whatsoever description, required for the importation, exportation, storage, refining, transportation, dispensing and supply of petroleum.

(b) by deleting the definition of the term Authority and substituting therefor the following new definition—

“Authority” means the Energy Regulatory Commission established under section 4 of the Energy Act, 2006.

*(Chairperson, Departmental Committee on Energy)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to  
Title - - agreed to

Clause 1 - amendment proposed -

**THAT**, clause 1 of the Bill be amended by deleting the words “(Exploration, Development and Production).

*(Chairperson, Departmental Committee on Energy)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 1 - as amended agreed to

Bill to be reported with amendments;

11. **HOUSE RESUMED** - the Third Chairperson in the House

**The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.48 of 2017)**

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report  
*(Chairperson, Departmental Committee on Energy)*

Question deferred to another day

12. **THE KENYA COAST GUARD SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2017)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Kenya Coast Guard Service bill (National Assembly Bill No.45 of 2017) be now read a Second Time

*(The Leader of the Majority Party – 25.04.2018)*

There being no Member wishing to speak;

Question deferred to another day

13. **THE TAX LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2018)**

Order for Second Reading read;

Order deferred to another day

And there being no other business and the time being three minutes to Six O'clock, the Third Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

14. **HOUSE ROSE** - at three minutes to Six O'clock

**M E M O R A N D U M**

The Speaker will take the Chair on  
Tuesday, June 12, 2018 at 2.30 p.m.