



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, JUNE 27, 2018 (AFTERNOON)

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

The Speaker conveyed the following Message from H.E. the President –

Nomination of persons for appointment to the offices of Chairperson of the Salaries and Remuneration Commission; the Chairperson to the Commission on Administrative Justice and Members of the Commission on Administrative Justice

“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 Salaries and Remuneration Commission; The Chairperson of the Commission on Administrative Justice and Members of the Commission on Administrative Justice.

In the first message, H.E. the President conveys that, in exercise of powers conferred by Article 230(2)(a) of the Constitution and section 7(10) of the Salaries and Remuneration Commission Act, 2011, as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he nominates Dr. Ben Chumo for appointment as the Chairperson to the Salaries and Remuneration 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 Commission on Administrative Justice Act, 2011, as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he nominates the following persons for appointment to the respective offices in the Commission on Administrative Justice -

- (i) The Hon. Florence Kajuju as the Chairperson of the Commission of Administrative Justice; and
- (ii) Mr. Washington Opiyo Sati, a person with disability (deaf), as Member of the Commission of Administrative Justice; and,
- (iii) Ms. Lucy KamunyeNdung'u as Member of the Commission on Administrative Justice.

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 Commission on Administrative Justice to the Departmental Committee on Justice and Legal Affairs to undertake the necessary approval hearings, while the nomination of the Chairperson of the Salaries and Remuneration Commission will stand referred to the Departmental Committee on Finance and National Planning.

Honourable Members, Section 7(11) of the Salaries and Remuneration Commission Act, 2011 and Section 11(7) of the Commission on Administrative Justice 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 Thursday, June 28, 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 a House Business Committee Resolution on Tuesday, June 26, 2018, the Leader of the Majority Party is to give notice of motion seeking to alter the Calendar of the House, so that the House proceeds on recess on 6th July 2018. With this and hoping the House agrees with the proposal, 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.

Thank you”.

5. PETITIONS

The following petitions were given –

- a) by the Member for Embakasi West (Hon.GeorgeTheuri) regarding harassment and confiscation of slot and gaming machines belonging to the members of Counties Amusement and Gaming Society; and

- b) the Member for Tharaka(Hon. George Gitonga) regarding the fencing of Meru National Park and human-wildlife conflict;

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

6. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) Legal Notice No. 128 of 21st June, 2018 relating to the provisional collection of Taxes and Duties Act (Cap 415) from the National Treasury;
- (ii) The Second Report of the Cabinet Secretary for the Ministry of Foreign Affairs to the National Assembly on Treaties Ratified by the Republic of Kenya for the period June, 2018 (*pursuant to section 15(1) of the Treaty Ratification Act, 2012 (Rev. 2014)*)
- (iii) National Ethics and Corruption Survey Report from the Ethics and Anti-Corruption Commission for the year 2016
- (iv) Annual Report and Financial Statements of the Kenya Society for the Blind for the year 2017
- (v) Second Policy and Criteria for Sharing Revenue among marginalized areas from the Commission on Revenue Allocation (CRA)
- (vi) Performance Audit Report from the Office of the Auditor-General on the provision of Sewerage in Major Towns in Kenya (*a case study of Kisumu City*) for the period April, 2018
- (vii) Performance Audit Report from the Office of the Auditor-General on the provision of mental healthcare services in Kenya for the period December, 2017
- (viii) The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30th June, 2017 and the certificates therein:-
 - a) The Presidency;
 - b) Kibabii University;
 - c) Kenya Agricultural and Livestock Research Organization (KALRO);
 - d) National Police Service Commission;
 - e) State Department of Trade (Vote 1174);
 - f) Ministry of East Africa Community, Labour and Social Protection;
 - g) State Department for Information, Communication & Technology& Innovation;
 - and
 - h) South Nyanza Sugar Company Limited.

(The Leader of the Majority Party)

- (ix) Report of the Parliament of Kenya Delegation to the 39th Annual Forum of Parliamentarians for Global Action held in Milan, Italy from 27th to 28th November, 2017

(Leader of Delegation -Hon. Adan Keynan)

7. **SPEAKER'S GUIDANCE REGARDING A PAPER LAID**

The Speaker gave the following communication as guidance regarding consideration of a particular Paper Paid (*Legal Notice No. 128 of 21st June, 2018 relating to the provisional collection of Taxes and Duties Act (Cap 415) submitted by the Cabinet Secretary for National Treasury*),-

Honourable Members,

Legal Notice No. 128 of 21st June, 2018 which has just been tabled by the Leader of Majority Party relates to the Provisional Collection of Taxes and Duties Order in respect of the Finance Bill, 2018 and was published in the Gazette on the 19th June, 2018.

Honourable Members,

Article 210(1) of the Constitution provides that no tax or licensing fee may be imposed, waived or varied except as provided by legislation. Further, Section 2 of the Provisional Collection of Taxes and Duties Act regarding provisional orders provides that, and I quote, ***“If a Bill is published in the Gazette whereby, if such Bill were passed into law, any tax or duty, or any rate, allowance or administrative or general provision in respect thereof, would be imposed, created, altered or removed, the Cabinet Secretary may, subject to this Act and notwithstanding the provisions of any other written law relating to taxes and duties, make an order that all or any specified provisions of the Bill relating to taxes or duties shall have effect as if the Bill were passed into law.*”**

Honourable Members,

You recall that under the Statutory Instruments Act and National Assembly Standing Orders, all Orders are Statutory Instruments and therefore require approval of the House. The Provisional Collection of Taxes and Duties Order as it relates to the Finance Bill, 2018 is a ***“Ways and Means”*** matter. I will therefore refer the legal Notice to the Departmental Committee on Finance and National Planning for consideration and the not Committee on Delegated Legislation, which is the Committee mandated by the Statutory Instruments Act and Standing Orders to scrutinize Statutory Instruments.

Honourable Members, the Committee is required to scrutinize the Order and submit its report on or before Wednesday, 4th July, 2018.

I thank you!”

8. **NOTICES OF MOTION**

The following Notices were given –

- (i) **THAT**, pursuant to the provisions of Standing Order 28(4), this House resolves to further alter its Calendar for the Second Session (2018) as adopted on February 14, 2018 and amended on March 01, 2018 by proceeding to a recess from Thursday, July 05, 2018 at the rise of the House and resuming its regular sittings on Tuesday, July 24, 2018.

(Leader of the Majority Party)

(iii) **THAT**, aware that Lake Victoria, the largest fresh water lake in the Kenya, is located in three East African countries; further aware that, the Islands of Migingo, Remba, Sigulu and Kiwa among others in the surrounding waters of the lake are located within Kenyan borders; recognizing the progress made in the East African Community integration process in deepening and widening the integration process including ensuring border communities are sensitized on these matters; cognizant of the fact that, Kenyans living along the borders, including fisher folk and pastoral communities, have continuously suffered from external threats through harassment, raids and arbitrary arrests, with even those operating in economic zones not immune to such threats; cognizant of the fact that, the provisions of Articles 238 (1), 239 and 241(3)(a) of the Constitution stipulate that National Security involves the protection of Kenya’s Territorial Integrity and Sovereignty, its people, their rights and national interest against internal and external threats; deeply concerned that, Kenyans especially those around Lake Victoria, the Indian Ocean and other border areas continue to face harassment and displacement by persons from neighbouring countries; this House resolves that the Government exercises its power to protect Kenyans from harassment by external threats and takes adequate measures to ensure that Kenyan territorial integrity is guaranteed and safeguarded.

*(Leader of the Minority Party)
(Minority Party sponsored Motion)*

9. **THE DIVISION OF REVENUE (AMENDMENT) BILL (SENATE BILL NO. 14 OF 2018)**
(Chairperson, Budget & Appropriations Committee)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

10. **COMMITTEE OF THE WHOLE HOUSE**

IN THE COMMITTEE

The Second Chairperson in the Chair

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

Clause 2 - agreed to

SCHEDULE

PROVISIONS RELATING TO THE INCOME TAX ACT (CAP 470)

Proposed amendment to Section 2

Further amendment proposed;

THAT the Schedule to the Bill be amended in the proposed amendments to section 2 of the Income Tax Act by deleting the definition of “winnings” and substituting therefor the following new definition—

s.2 “winnings” means the positive difference between payouts made and stakes placed in a given month, for each player, payable to punters by bookmakers licensed under the Betting, Lotteries and Gaming Act;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the further amendment put and agreed to;

Amendment to Section 2, as further amended agreed to.

Proposed Amendment to Section 10 - agreed to

Proposed amendment to Section 22C(2)

Further amendment proposed;

THAT the Schedule to the Bill be amended by inserting the following new paragraph immediately after the proposed amendment to section 22C(2)—

NEW Insert the following new section immediately after section 30—

Affordable housing relief.

30A.(1)A resident individual who satisfies the Commissioner that in a year of income that the person—

- (a) is eligible to make an application under an affordable housing scheme;
- (b) has applied and is awaiting the allocation of a house *under* an affordable housing scheme; and
- (c) is saving for a purchase under an affordable housing scheme approved by the Cabinet Secretary in charge of housing, shall for that year of income be entitled to a personal relief in this Act referred to as the affordable housing relief.

(2)A person who has been allocated a house under the affordable housing scheme and has been subject to an affordable housing relief under subsection (1) shall not be re-eligible for a subsequent relief.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the further amendment put and agreed to;

Amendment to Section 22, as further amended agreed to.

Proposed Amendment to Sections 34(1) and 34(2) - agreed to.

Proposed Amendment to Section 35(1) - agreed to.

Proposed Amendment to Section 35(3) - further amendment proposed;

THAT the Schedule to the Bill be amended by inserting the following new paragraph immediately after the proposed amendment to section 35(3)—

NEW s.132 Insert the following new subsection immediately after subsection (1)—

(1A)Notwithstanding subsection (1), for purpose of collection of withholding tax for winnings, a person shall not be required to have a personal identification number.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the further amendment put and negatived;

Proposed Amendment to Section 35(3) - agreed to.

First Schedule (Part I)

Proposed amendment of First Schedule (Part I)

Further amendment proposed

THAT the proposed amendment to Part I of the First Schedule be further amended by-

- (i) deleting the proposed new paragraphs 56 and 57;
- (ii) inserting the following new paragraph after paragraph 56;

“56A. Compensating tax accruing to a power producer under a power purchase agreement”;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the further amendment put and agreed to;

Proposed amendments to Part I of the First Schedule as further amended agreed to;

Third Schedule – HEAD B

Paragraph 3;

Further amendment proposed;

THAT the proposed amendment of the Third Schedule be further amended by inserting the following new HEAD before the proposed amendment to Paragraph 3 of Head B—

<i>NEW</i>	<i>Head</i>	Insert the following new paragraph immediately
	<i>A</i>	after paragraph 2—

Affordable housing relief.

3. The amount of affordable housing relief shall be 15% of the gross emoluments but shall not exceed Ksh.108,000 per annum.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the further amendment put and agreed to;

Insertion of a New paragraph - agreed to;

Second further amendment proposed;

THAT the Schedule to the Bill be amended in the proposed amendments to the Income Tax Act by-

- (a) deleting the word “twenty” appearing in the proposed new subparagraph (i) in the proposed amendments to Paragraph 3 of Head B in the Third Schedule and substituting therefor the word “ten”; and
- (b) deleting the word “twenty” appearing in the proposed new subparagraph (i) in the proposed amendments to Paragraph 5 of Head B in the Third Schedule and substituting therefor the word “ten”.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the second further amendment proposed;

Debate arising;

Question of the second further amendment put and negated;

Amendment of the Third Schedule, HEAD B, - agreed to;

Paragraph 5

Amendment to paragraph 5 - agreed to

PROVISION RELATING TO THE STAMP DUTY ACT (CAP 480)

Amendment of Section 117(1) - further amendment proposed

THAT the Schedule to the Bill be amended by;

(1) in the proposed amendments to the Stamp Duty Act by inserting the following new paragraph immediately before the proposed amendment to section 117—

s.10A.(1) Delete and substitute with the following new subsection—

10A. (1) The Collector of Stamp Duties shall refer to the Chief Government Valuer or a registered and practicing valuer any conveyance or transfer on sale of any immovable property before or after registration of the relevant instruments in order to determine the true open market value of such property as at the date of the conveyance or transfer for purposes of ascertaining whether any additional stamp duty is payable.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Further amendment to the proposed further amendment proposed;

THAT the proposed further amendment to Section 10A be further amended by inserting the words “ appointed by the Chief Government Valuer” immediately after the words “ practicing valuer”

Question of the amendment to the further amendment proposed;

Debate arising;

Question of the amendment to the further amendment put and agreed to;

Question of the amendment as further amendment proposed;

Debate arising;

Question of Amendment of Section 117(1), as further amended put and agreed to;

PROVISIONS RELATING TO THE VALUE ADDED TAX ACT, 2013

Amendments to The First Schedule, Section A. Part I

Paragraphs 94 and 95;

Further amendment proposed;

THAT the Schedule to the Bill be amended in the proposed amendments to the Value Added Tax Act, 2013, in section A of Part I of the First Schedule,by deleting the proposed new—

(i) paragraph 94;

(ii) paragraph 95;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the further amendment put and agreed to;

Paragraphs 94 and 95 - **deleted**;

Paragraph 96: - agreed to.

Paragraph 97: - agreed to.

Paragraph 98: - agreed to.

Paragraph 99: - agreed to.

Paragraphs 100, 101 and 102;

Further amendment proposed;

THAT the Schedule to the Bill be amended in the proposed amendments to the Value Added Tax Act, 2013, in section A of Part I of the First Schedule,by deleting the proposed new—

(i) paragraph100;

(ii) paragraph101;

(iii) paragraph102;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the further amendment put and agreed to;

Paragraphs 100, 101 and 102 - **deleted**;

Paragraph 103;

Further amendment proposed;

THAT the Schedule to the Bill be amended in the proposed amendments to the Value Added Tax Act, 2013, in section A of Part I of the First Schedule, by deleting the expression "**ordinary bread**" appearing in the proposed new paragraph 103;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the further amendment put and agreed to;

Amendment to Paragraph 103 as further amended agreed to;

Paragraph 104;

Further amendment proposed;

THAT the Schedule to the Bill be amended in the proposed amendments to the Value Added Tax Act, 2013, in section A of Part I of the First Schedule, by deleting the proposed new paragraph 104;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the deletion proposed;

Debate arising;

Question of the deletion put and agreed to;

Paragraph 104 - **deleted**

Paragraph 105: - agreed to.

Paragraph 106: - agreed to.

Paragraph 107;

Further amendment proposed;

THAT the Schedule to the Bill be amended in the proposed amendments to the Value Added Tax Act, 2013, in section A of Part I of the First Schedule, by deleting the proposed new paragraph 107;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the deletion proposed;

Debate arising;

Question of the deletion put and agreed to;

Paragraph 107 - **deleted**

Amendments to The Second Schedule, Part A

Paragraph 7– proposed deletion agreed to;

Paragraph 8 – proposed deletion agreed to;

Paragraph 11;

Further amendment proposed;

THAT the Schedule to the Bill be amended in Part A of the Second Schedule by deleting the proposed deletion of paragraph 11;

Question of the deletion proposed;

Debate arising;

(Question of the deletion proposed;

Debate arising;

Question of the deletion put and agreed to;

Paragraph 11- proposed deletion, **deleted**

Paragraph 13;

Further amendment proposed;

THAT the Schedule to the Bill be amended in Part A of the Second Schedule by-

(i) deleting the proposed amendment to paragraph 13;

(ii) deleting the *second* paragraph 13 in the principal Act and substituting therefor the following new paragraph -

13A. The supply of ordinary bread;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Paragraph 13, as further amended agreed to

Paragraph 14 – proposed deletion agreed to;

Paragraph 15;

Further amendment proposed;

THAT the Schedule to the Bill be amended in Part A of the Second Schedule by deleting the proposed deletion of paragraph 15;

Question of the deletion proposed;

Debate arising;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the proposed deletion put and agreed to;

Paragraph 15 - proposed deletion, **deleted**

Paragraph 16;

Further amendment proposed;

THAT the Schedule to the Bill be amended in Part A of the Second Schedule by deleting the proposed deletion of paragraph 16;

Question of the deletion proposed;

Debate arising;

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the proposed deletion put and agreed to;

Paragraph 16 - proposed deletion, **deleted**

Paragraph 17 – proposed deletion agreed to;

New Paragraph 18 – amendment proposed;

THAT the Schedule to the Bill be amended by inserting the following new amendment immediately after the proposed amendment to paragraph 17—

New Insert the following new paragraph immediately after paragraph 17—

18. Inputs or raw materials for electric accumulators and separators including lead battery separator rolls whether or not rectangular or square supplied to manufacturers of automotive and solar batteries in Kenya”.

Chairperson, Departmental Committee on Finance and National Planning)

Question of the new amendment proposed;

Debate arising;

Question put and agreed to;

New Paragraph 18 – agreed to;

Amendments to The Second Schedule, Part B

Paragraph 6– proposed deletion agreed to;

Paragraph 7 – proposed deletion agreed to;

Amendments to The Second Schedule, Part C

Part C – further amendment proposed;

THAT the Schedule to the Bill be amended by deleting the proposed deletion of Part C.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the further amendment proposed;

Debate arising;

Question of the deletion of the proposed deletion put and agreed to;

Part C- proposed deletion, **deleted**

NEW PROVISION: (THE BETTING LOTTERIES AND GAMINGACT (CAP 131)

THAT, the following new provisions on relating to the Betting Lotteries and gaming Act (Cap 131) now Read a Second Time-

Motion made and question proposed;

THAT, the Schedule to the Bill be amended by inserting the following new item in its proper alphabetical sequence—

<i>NEW The Betting Lotteries and Gaming Act (Cap. 131)</i>	s.29A(1)	Delete the expression "thirty-five" and substitute therefor the word "fifteen".
	s.44A(1)	Delete the expression "thirty-five" and substitute therefor the word "fifteen".
	s.55A(1)	Delete the expression "thirty-five" and substitute therefor the word "fifteen".
	s.59B(1)	Delete the expression "thirty-five" and substitute therefor the word "fifteen".

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Proposed amendment **withdrawn**;

Title - agreed to

Clause 1 - Amendment proposed

THAT, Clause 1 be amended –

- (i) by renumbering the existing provision as subclause (1);
- (ii) by inserting the following new subclause immediately after the renumbered subclause (1)-

“(2) This Act shall come into operation, or bedeeded to have come into operation, as follows –

- (a) provisions relating to the Income Tax Act (Cap 470), on the 1st July, 2018;

- (b) provisions relating to the Stamp Duty Act (Cap 480), on the 1st October, 2018;
- (c) provisions relating to the Value Added Tax, 2013 on the 1st July, 2018”;
- (iii) in the marginal note, by inserting the expression “and commencement” immediately after the word “title”.

(Chairperson, Departmental Committee on Finance and National Planning)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 1, as amended agreed to.

Bill reported by the Mover with amendments;

Chairperson to report the Bill with amendments;

10. **HOUSE RESUMED-** the Third Chairperson of the Committees in the Chair

The Tax Laws (Amendment) Bill (National Assembly Bill No. 11 of 2018)

Bill reported with amendments by the Chairperson;

Motion made and Question proposed –

THAT, this House do agree with the Committee in the said report.

(Leader of the Majority Party)

Question to be put.

11. **MOTION -REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON THE INQUIRY INTO ALLEGED LAND IRREGULARITIES**

Motion made and Question proposed –

THAT, this House adopts the Report of Departmental Committee on Lands on the inquiry into the alleged irregularities in the compensation for part of Land LR. No.7879/4 to M/s. Afrison Import Export Ltd and Huelands Ltd by the National Land Commission, laid on the Table of the House on Thursday, June 7, 2018

(Chairperson, Committee on Delegated Legislation)

Debate interrupted on Tuesday, June 26, 2018 resumed;

Amendment proposed –

THAT, the Motion be amended by deleting paragraph 6 of the Recommendation on page 31 of the Report.

(Vice-Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

And the time being Seven O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

12. **HOUSE ROSE** - at Seven O'clock
(The Third the Third Chairperson of the Committees in the Chair)

M E M O R A N D U M

The Speaker will take the Chair on
Thursday, June 28, 2018 at 2.30 p.m.

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