



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FIRST SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, OCTOBER 11, 2017

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

The following Papers were laid on the Table –

- (i) Sessional Paper No. 06 of 2016 on the National Urban Development Policy (NUDP) from the Ministry of Transport, Infrastructure, Housing and Urban Development;
- (ii) Sessional Paper No. 1 of 2017 on National Land Use Policy from the Ministry of Lands and Physical Planning;
- (iii) Report of the Auditor General and Financial Statements of the Kenya Post Office Savings Bank for the year ended 31st December, 2015 and the certificate therein;
- (iv) Report of the Auditor General and Financial Statements of the Central Bank of Kenya for the year ended 30th June, 2017 and the certificate therein;
- (v) Reports of the Auditor-General on the Financial Statements in respect of the following Institutions for the year ended 30th June, 2016 and the certificates therein:-
 - a) Civil Servants Housing Scheme Fund;
 - b) Consolidated Fund Services - Salaries, Allowances and Miscellaneous Services;
 - c) Kenya National Examinations Council;
 - d) Ewaso Ng'iro South Rivers Basin Development Authority;
 - e) Murang'a University;
 - f) Water Services Regulatory Board; and
 - g) State Department of Infrastructure (Vote 1091).

(vi) The Reports of the Auditor-General on the Financial Statements in respect the following Constituencies for the year ended 30th June, 2016 and the certificates therein:-

- a) North Horr Constituency;
- b) Voi Constituency;
- c) Lamu West Constituency;
- d) Isiolo North Constituency;
- e) Gatundu South Constituency;
- f) Gatanga Constituency;
- g) Kigumo Constituency;
- h) Kipipiri Constituency; and
- i) Juja Constituency.

5. **NOTICES OF MOTION**

The following Notices were given –

(i) **THAT**, this House adopts Sessional Paper No. 1 of 2017 on the National Land Use Policy from the Ministry of Lands and Physical Planning, laid on the Table of the House today, Wednesday, 11th October, 2017.

(The Leader of the Majority Party)

(ii) **THAT**, aware that apathy in sugarcane farming due to unfavourable weather patterns and poor payment programmes by sugar millers to farmers has resulted in a worrying drop in cane production and thus drop in sugar production; noting that millers have for years frustrated farmers through delays in payment for cane delivered; concerned that these late payments have caused sugar farmers untold suffering and frustrations and has made them incur huge losses resulting from interests on loans advanced to them during cane farming to purchase fertilizers and other farm inputs; cognizant of the fact that as a result of these delayed payments, many of the farmers have remained poor and in debt, this House **urges** the cane millers to provide for the mandatory payment to cane farmers within fourteen days (14) days upon delivery.

(Hon. Julius Melly)

6. **PROCEDURAL MOTION- EXEMPTION OF BUSINESS FROM THE PROVISIONS OF STANDING ORDER 40(3)**

Motion made and Question proposed -

THAT, this House orders that the business appearing in the Order Paper be exempted from the provisions of Standing Order 40(3) being a Wednesday Morning, a day allocated for Business not sponsored by the Majority or Minority Party or Business sponsored by a Committee.

(The Leader of the Majority Party)

Question put and agreed to.

7. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Chairperson of Committees in the Committee

The Election Laws (Amendment) Bill (National Assembly Bill No. 39 of 2017)

Clause 2 - amendment proposed -

THAT clause 2 of the Bill be amended by deleting the proposed definition of “chairperson” and substituting therefor the following new definition—

“Chairperson” means the chairperson of the Commission appointed in accordance with Article 250(2) of the Constitution or the vice-chairperson or a Member of the Commission when discharging the functions of the chairperson.”

(Hon. William Cheptumo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to

Clause 3 - amendment Proposed -

THAT the Bill be amended by deleting clause 3 and substituting therefor the following new Clauses—

Amendment of section 7A of No.9 of 2011.

3. The Independent Electoral and Boundaries Commission Act, 2011 is amended in section 7A by inserting the following new subsections immediately after sub-section (3) —

(No. 012)

“(4) Whenever a vacancy occurs in the office of the chairperson, the vice-chairperson shall act as the chairperson and exercise the powers and responsibilities of the chairperson until such a time as the chairperson is appointed.

(5) Where the positions of chairperson and vice-chairperson are vacant, a member elected by members of the Commission shall act as the chairperson and exercise the powers and responsibilities of the chairperson until such a time as the chairperson is appointed.

(6) The provisions of section 6(1) shall not apply to the vice-chairperson or a member acting as chairperson under this section”.

Insertion of a new section in No.9 of 2011.

3A. The Independent Electoral and Boundaries Commission Act, 2011 is amended by inserting the following new section immediately after section 7A —

Absence of chairperson.

7B. (1) Whenever the chairperson is absent, the vice-chairperson shall assume the duties of the chairperson and exercise the powers and responsibilities of the chairperson.

(2) Whenever the chairperson and the vice-chairperson are absent, members of the Commission shall elect from amongst themselves a member to act as the chairperson and exercise the powers and responsibilities of the chairperson.

(3) The provisions of section 6(1) shall not apply to the vice-chairperson or a member acting as chairperson under this section.

(Hon. William Cheptumo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to

Clauses 4 & 5 - agreed to

Clause 6 - amendment proposed —

THAT clause 6 of the Bill be amended —

- (a) in paragraph (a) by deleting the words “and manually transmit” and substituting therefor the words “transmit and physically deliver”;
- (b) in paragraph (b) by deleting the proposed new subsection (1D) and substituting therefor the following new subsections—

“(1D) The Commission shall verify that the results transmitted under this section are an accurate record of the results tallied, verified and declared at the respective polling stations.

“(1DA) Where there is a discrepancy between the electronically transmitted and the physically delivered results, the Commission shall verify the results and the result which is an accurate record of the results tallied, verified and declared at the respective polling station shall prevail.”

- (c) by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) by deleting sub-section (2) and substituting therefor the following new subsection—

“(2) The Chairperson may declare a candidate elected as the President before all the constituencies have transmitted their results if the Commission is satisfied the results that have not been received will not affect the result of the election.”

(Hon. William Cheptumo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - as amended agreed to

Clause 7 - agreed to

Clause 8 - amendment proposed –

THAT Clause 8 of the Bill be amended in the proposed amendment to section 44A by deleting the word “may” and substituting therefor the word “shall”.

(Hon. William Cheptumo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 8 - as amended agreed to

Clause 9 - amendment proposed –

THAT the Bill be amended by deleting Clause 9 and substituting therefor the following Clause—

Amendment section 83 of No. 24 of 2011.

9. The Elections Act is amended by deleting section 83 and substituting therefor the following section—

Nullification of an election.

83. (1) A Court shall not declare an election void for non-compliance with any written law relating to that election if it appears that—

(a) the election was conducted in accordance with the principles laid down in the Constitution and in that written law; and

(b) the non-compliance did not substantially affect the result of the election.

Cap. 2 (2) Pursuant to section 72 of the Interpretation and General Provisions Act, a form prescribed by this Act or the regulations made thereunder shall not be void by reason of a deviation from the requirements of that form, as long as the deviation is not calculated to mislead.

(Hon. William Cheptumo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 9 - as amended agreed to

Clause 10 - amendment proposed –

THAT, clause 10 of the Bill be amended in the proposed new section 86A by deleting subsection (2).

(Hon. William Cheptumo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 10 - as amended agreed to

Clause 11 - amendment proposed –

THAT the Bill be amended by deleting clause 11 and substituting therefor the following new clause—

Amendment of section 6 of No. 37 of 2016.

11. Section 6 of the Election Offences Act, 2016 is amended in the closing statement by deleting the words “one million shillings or to imprisonment for a term not exceeding three years” and substituting therefor the words “two million shillings or to imprisonment for a term not exceeding five years”.

(Hon. William Cheptumo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 11 - as amended agreed to

New Clause 12 proposed –

THAT, the Bill be amended by inserting the following new clause immediately after clause 11 –

Amendment of section 14 of No. 37 of 2016. **12.**The Election Offences Act, 2016, is amended in section 14 by deleting subsection (2)

(Hon. Aden Duale)

Motion made and Question proposed –

THAT the New Clause 12 be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT the New Clause 12 be part of the Bill;

Debate arising;

Question put and agreed to;

New Clause 12 - agreed to

Clause 1 - agreed to

Title - agreed to

Bill to be reported with amendments;

8. **HOUSE RESUMED** - the First Chairperson in the Chair

The Election Laws (Amendment) Bill (National Assembly Bill No. 39 of 2017)

Bill reported with amendments;

Motion made and Question proposed –

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

(Hon. William Cheptumo)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Election Laws (Amendment) Bill (National Assembly Bill No. 39 of 2017) be now read a Third Time

(Hon. William Cheptumo)

Debate arising;

Question put and agreed to;

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

9. **MOTION – APPROVAL OF THE REPORT ON THE SUPPLEMENTARY ESTIMATES FOR THE FINANCIAL YEAR 2017/2018**

Motion made and Question proposed –

THAT, this House adopts the Report of the **Ad-Hoc Committee on the Supplementary Estimates** for the Financial Year 2017/2018, laid on the Table of the House on Tuesday, October 10, 2017 and pursuant to the provisions of Article 223 of the Constitution and Standing Order 243, **approves-**

- (i) an increment of the total recurrent expenditure for Financial Year 2017/2018 by **Kshs. 63,513,309,301** in respect of the Votes as contained in the Schedule;
- (ii) a reduction of the total capital expenditure for Financial Year 2017/2018 by **Kshs.24,899,676,347** in respect of the Votes as contained in the Schedule;
- (iii) an overall increment in the total budget for Financial Year 2017/2018 by **Kshs.38,613,632,954** in respect of the Votes as contained in the Schedule; and
- (iv) further resolves that the Schedule forms the basis of the enactment of the First Supplementary Appropriations Act, 2017.

(Chairperson, Ad-Hoc Committee on the Supplementary Estimates)

Debate arising;

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

Rising in his place on a Point of Order, the Member for Kipipiri (Hon. Amos Kimunya) claimed to move that “the Mover be now called upon to reply”;

And the First Chairperson acceding to the claim;

Question put and agreed to;

Thereupon, the Mover replied;

Question put and agreed to.

And the time being One O’clock, the First Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

10. **HOUSE ROSE** - at One O’clock

MEMORANDUM

The Speaker will take the Chair today,
Wednesday, October 11, 2017 at 2.30 p.m.