



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

SUPPLEMENTARY

WEDNESDAY, FEBRUARY 27, 2019 AT 2.30 P.M.

ORDER OF BUSINESS

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Questions and Statements

**8*. THE CONSTITUTION OF KENYA (AMENDMENT) BILL
NATIONAL ASSEMBLY BILL NO. 4 OF 2018)**

(The Leader of the Majority Party)

Second Reading

(Mover to Reply)

(Question to be put)

9*. COMMITTEE OF THE WHOLE HOUSE

The Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018)
(The Chairperson, Departmental Committee on Finance and National Planning)

**10*. MOTION – REPORT OF THE BUDGET AND APPROPRIATIONS
COMMITTEE ON THE 2019/2020 BUDGET POLICY
STATEMENT**

(The Chairperson, Budget & Appropriations Committee)

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement and the Debt Management Strategy for 2019/2020 and the Medium-Term, *laid on the Table of the House on Wednesday, February 27, 2019.*

- 11*. **MOTION – PROGRESS REPORT ON THE INQUIRY INTO THE PROPOSED TAKEOVER OF JOMO KENYATTA INTERNATIONAL AIRPORT BY KENYA AIRWAYS**
(The Chairperson, Public Investments Committee)

THAT, this House **adopts** the Progress Report of the Public Investments Committee on the inquiry into the Proposed Takeover of Jomo Kenyatta International Airport by Kenya Airways, *laid on the Table of the House on Wednesday, February 27, 2019.*

- 12*. **THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 13 OF 2018)**
(The Leader of the Majority Party)

Second Reading

(Resumption of debate interrupted on Tuesday, November 13, 2018)

- 13*. **MOTION – REPORT ON THE DISBURSEMENTS OF FUNDS TO THE NG-CDF**
(The Chairperson, Select Committee on National Government Constituencies Development Fund)

THAT, this House **adopts** the Report of the Select Committee on National Government Constituencies Development Fund on the Status of Disbursements of Funds to the National Government Constituencies Development Fund as at February 22, 2019, *laid on the Table of House on February 26, 2019.*

- 14*. **THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2018)**
(The Leader of the Majority Party)

Second Reading

*** Denotes Orders of the Day**

(No. 10)

WEDNESDAY, FEBRUARY 27, 2019

(057)

NOTICES

I. THE INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2018)

- 1) Notice is given that the Chairperson of the Departmental Committee on Finance and National Planning intends to move the following amendments to the Insurance (Amendment) Bill, 2018 at the Committee Stage—

CLAUSE 2

THAT, clause 2 of the Bill be amended —

(a) by deleting the definition of the term “insurance fraud”;

(b) by deleting paragraph (b) and substituting therefor the following paragraph—

(b) in the definition of “insurance business” by inserting the following new paragraph immediately after paragraph (d)—

(e) micro-insurance business;

(f) social insurance schemes.

CLAUSE 3

THAT, clause 3 of the Bill be amended in the proposed new section 5A by —

(a) deleting subsection (1) and substituting therefor the following subsection—

(1) Where an insurer is part of a group, the Commissioner may direct the principal officer to provide any information necessary for effective group-wide supervision.

(b) inserting the following subsection immediately after subsection (2) —

(3) In this section, “group” means an entity carrying on any other business in addition to insurance business.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause-

7A. Section 87 of the principal Act is amended in subsection (2) by inserting the words “or email or other electronic or telecommunication mode” immediately after the word “post”.

CLAUSE 10

THAT, the Bill be amended by deleting clause 10 and substituting therefor the following new clause-

10. The principal Act is amended by repealing section 156 and replacing it with the following new sections—

Advance payment of
premiums.

156. (1) No insurer shall assume a risk in Kenya in respect of insurance business unless and until the premium payable thereon is received by him or is guaranteed to be paid by such person in such manner and within such time as may be prescribed, or unless and until a deposit, of a prescribed amount, is made in advance in the prescribed manner.

(2) Where an insurer engages or, is approached by an intermediary intending to transact insurance business and receive premiums for that insurer, the insurer shall enter into a contract with the particular intermediary.

(3) A contract made between an insurer and intermediary under subsection (2) shall contain such mechanisms or terms as to guarantee that the premiums received by the intermediary are remitted to the insurer.

(4) A premium collected by an intermediary or a cheque received by an intermediary shall be deposited with, or dispatched and received by the insurer within thirty days of receipt by the intermediary.

(5) An intermediary who contravenes subsection (4) shall be guilty of an offence and shall pay a penalty equivalent to twenty percent of the unremitted premiums on each contravention, payable to the Policy Holder Compensation Fund.

(6) A director or employee of an intermediary who contravenes subsection (4) shall on conviction be liable to a fine not exceeding one hundred thousand or to imprisonment for a term of three months or to both.

(7) The Cabinet Secretary may make regulations to give effect to this section.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 10-

10A. The principal Act is amended by inserting the following new section immediately after section 156-

Payment of intermediary insurance commission.

156A. (1) An insurer shall pay an intermediary an intermediary insurance commission within thirty days of receipt of premiums.

(2) An insurer who contravenes this section shall be guilty of an offence and shall pay a penalty equivalent to twenty percent of the unpaid intermediary insurance commission on each contravention.

(3) A penalty under this section shall be paid into the Policy Holders Compensation Fund.

NEW CLAUSE

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

11A. Section 119 of the principal Act is amended by inserting the words “or email or other electronic mode”

CLAUSE 12

THAT, clause 12 of the Bill be amended in the proposed section 204A in subsection (1) by inserting the word “written” immediately after the words “lodge a”;

2) **Notice is given that the Member for Kikuyu (Hon. Kimani Ichung’wah) intends to move the following amendments to the Insurance (Amendment) Bill, 2018 at the Committee Stage-**

CLAUSE 3

THAT, the Bill be amended by deleting the proposed new section 5A and substituting therefor the following new section—

Power of the Commissioner on group-wide supervision.

5A. (1) Where an insurer is part of a group, the Commissioner may direct the principal officer to provide any information necessary for effective group-wide supervision.

(2) Subject to subsection (1), where the group is a regulated entity, the Commissioner shall request the information through the respective regulator.

(3) The information required under subsection (1) shall be limited to information necessary for safeguarding the policyholders’ interests.

(4) The provisions of the section shall not limit the Commissioner from requesting for information relating to a group's capital adequacy levels or any other relevant information.

(5) In this section, "group" means an entity carrying on any other business in addition to insurance business.

CLAUSE 10

THAT, the Bill be amended by deleting the proposed section 156 and substituting therefor the following new section-

Advance payment
of premiums.

156. (1) An insurance broker who receives money for payment of premiums on behalf of an insurer shall remit the premiums to the insurer within thirty days of receiving the money.

(2) An insurer shall only assume risk upon receipt of a first installment of the premiums, which shall not be less than fifteen percent of the total premiums payable by the insured.

******(3) The Cabinet Secretary shall by Regulations—

(a) specify the categories of brokers and agents, the kind of business and the capital requirements they may transact on credit with insurers;

(b) subject to section 153(1), specify the amount of the guarantee necessary against the volume of business of a broker.

******(4) Subject to sub-section (3), an insurance agent or broker shall not hold premiums which exceed the bank guarantee provided under section 153(1).

*(** denotes Subject to Standing Order 133(5))*

3) Notice is given that the Member for Endebess (Hon. Dr. Robert Pukose) intends to move the following amendments to the Insurance (Amendment) Bill, 2018 at the Committee Stage—

CLAUSE 2

THAT, clause 2 of the Bill be amended—

(a) in paragraph (a) by inserting the following definitions in the proper alphabetical sequence-

“independent agent” means a person who not being a salaried employee of an insurer or reinsurer and in consideration of a commission solicits or procures insurance business for one or more insurers, brokers or insured persons;

“tied agent” means a natural person who not being a salaried employee of an insurer or reinsurer and in consideration of a commission solicits or procures insurance business for a single insurer or single insurance group and owes a fiduciary duty to the insurance company or insurance group.

(b) by inserting the following new paragraphs immediately after paragraph (b) –

(c) by deleting the definition of the term “ broker” and substituting therefor the following new definition-

“broker” in relation to an insurer or reinsurer means a person –

- (a) who carries on the business of arranging contracts of insurance whether or not the business is the person’s principal business or is carried on in connection with any other business;
- (b) who is not the employee of the insurer or reinsurer;
- (c) who is not appointed, under a signed agreement as the agent for the insurer for the purposes of receiving money due to the insurer from the insured or from the insured to the insurer; and
- (d) whose fiduciary duty is to the client.

(d) by deleting the definition of the term “intermediary” and substituting therefor the following new definition-

“intermediary” means a broker, an independent agent or tied agent;

4) Notice is given that the Member for Mathioya (Hon. Peter Kihara) intends to move the following amendment to the Insurance (Amendment) Bill, 2018 at the Committee Stage—

*****NEW CLAUSE**

THAT, the Bill be amended by inserting the following new clause immediately after clause 10—

Insertion of new section in Cap.487.

10A. The principal Act is amended by inserting the following new section immediately after section 156—

Procurement of insurance by public bodies. No. 33 of 2015.

156A. (1) A state organ or public body shall procure insurance services through an agent or broker in accordance with the Public Procurement and Asset Disposal Act, 2015.

(2) The accounting officer of a state organ or public body which directly procures insurance services for the state organ or public body from an insurer commits an offence.

No. 33 of 2015.

(3) Despite subsection (1), a state organ or public body may, in exceptional circumstances and subject to the Public Procurement and Asset Disposal Act, 2015, procure insurance services directly from an insurer.

(4) An insurer who pays a commission, advance or any other financial benefit to any person or intermediary in respect of insurance business procured under subsection (3) commits an offence.

(5) The Commissioner shall prescribe the exceptional circumstances under which a state organ or public officer may procure insurance services directly with an insurer under subsection (3).

(6) A person who commits an offence under this section shall be liable, upon conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding ten years.

*[*** denotes subject to Article 114 of the Constitution]*



The House resolved on Wednesday, February 13, 2019 as follows:-

- II.** **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by the relevant Committee), and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each (if the Bill is not sponsored by either of them); and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.
- I.** **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in debate on **Reports of Committees**, including a Report of a Joint Committee of the Houses of Parliament or any other Report submitted to the House for which limitation of time has not been specified, shall be limited as follows:- A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each; and that priority shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that order.
-

NOTICE PAPER

Tentative business for

Thursday, February 28, 2019

(Published pursuant to Standing Order 38(1))

It is notified that the House Business Committee, at their last meeting, approved the following tentative business to appear in the Order Paper for Thursday, February 28, 2019:-

A. COMMITTEE OF THE WHOLE HOUSE

Consideration of the President's Reservations to the Health Laws (Amendment) Bill (National Assembly Bill No. 14 of 2018)
(The Leader of the Majority Party)

B. THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 13 OF 2018)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, February 27, 2019 - Afternoon sitting)

C. MOTION – REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE 2019/2020 BUDGET POLICY STATEMENT

(The Chairperson, Budget and Appropriations Committee)

(If not concluded on Wednesday, February 27, 2019 - Afternoon sitting)

D. MOTION – PROGRESS REPORT OF THE PUBLIC INVESTMENTS COMMITTEE ON THE INQUIRY INTO THE PROPOSED TAKEOVER OF JOMO KENYATTA INTERNATIONAL AIRPORT BY KENYA AIRWAYS

(The Chairperson, Public Investments Committee)

(If not concluded on Wednesday, February 27, 2019 - Afternoon sitting)

E. MOTION – REPORT ON THE DISBURSEMENTS OF FUNDS TO THE NG-CDF

(The Chairperson, Select Committee on National Government Constituencies Development Fund)

(If not concluded on Wednesday, February 27, 2019 – Afternoon sitting)

F. THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2018)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, February 27, 2019 – Afternoon sitting)

APPENDIX

ORDER NO.7 - QUESTIONS

Pursuant to the provisions of Standing Order 42A (5) the following Members will ask **questions** for reply before the specified Departmental Committees:-

Question No. **ORDINARY QUESTIONS**

055/2019 **The Member for Molo Constituency (Hon. Francis Kuria Kimani, MP) to ask the Cabinet Secretary for Transport, Infrastructure, Housing & Urban Development: -**

- (a) Is the Cabinet Secretary aware of the deplorable and bad state of Nakuru-Njoro-Molo road, especially the stretch from Njoro to Molo?
- (b) Considering the importance of the said road as it is used as a by-pass by motorists avoiding Nakuru-Salgaa-Sachangw'an-Total Road, and as the only tarmacked road linking Njoro-Molo and Kuresoi South Constituency, what measures is the Ministry putting in place to ensure that this road is repaired?

(To be replied before the Departmental Committee on Transport, Public Works and Housing)

056/2019 **The Member for Kamukunji Constituency (Hon. Yusuf Hassan, MP) to ask the Cabinet Secretary for Interior & Coordination of National Coordination: -**

- (a) Is the Cabinet Secretary aware that on 28th November, 2018 at Kabete area of Nairobi City County, Ethics and Anti-Corruption Commission officials were attacked by Police Officers leading to the escape of suspects, PC Julius Oguma, Service No. 79715 and PC Charles Macharia, Service No. 95924, both from Directorate of Criminal Investigations?
- (b) What actions has the Ministry taken to apprehend the above-named suspects and bring them to court or hand them over to the Ethics and Anti-Corruption Commission?

- (c) What steps has the Ministry taken to ensure such acts are not tolerated and that appropriate action is taken to protect EACC officials from such acts?

(To be replied before the Departmental Committee on Administration and National Security)

057/2019 The Member for Isiolo County (Hon. Rehema Dida Jaldesa, MP) to ask the Cabinet Secretary for Lands: -

- (a) What is the status of implementation of the High Court judgment of 6th June, 2017 on Constitutional Petition No. 511 of 2015 regarding the boundary between Isiolo and Meru Counties?
- (b) What action has the Ministry and the National Land Commission taken to resolve this boundary dispute?

(To be replied before the Departmental Committee on Lands)

058/2019 The Member for Runyenjes Constituency (Hon. Eric Muchangi Njiru, MP) to ask the Cabinet Secretary for Transport and Infrastructure: -

- (a) Could the Cabinet Secretary explain the status of the construction of Kyeni-Kathanjuri-Karurumo road in Runyenjes Constituency?
- (b) When is the construction of the said road expected to be completed?

(To be replied before the Departmental Committee on Transport, Public Works and Housing)

059/2019 The Nominated Member (Hon. (Prof.) Jacqueline Oduol, MP) to ask the Cabinet Secretary for Labour and Social Protection:-

- (a) What action is the Cabinet Secretary taking to ensure that children in need of care and protection are placed in “family-based” care such as foster homes, adoption guardianship or kinship care as opposed to children’s homes which have been mushrooming, and in some cases, for reasons that are not in the best interest of children?
- (b) Could the Cabinet Secretary provide a list of all duly registered children’s homes in the country indicating their location in terms of constituencies and counties, and whether they are administered by Kenyan nationals or foreigners?
- (c) What policy direction exists in the National Council for Children Services to safeguard children and ensure they are not

stolen, trafficked or abused by duty bearers and care givers in hospitals, homes, schools, families and religious institutions?

(To be replied before the Departmental Committee on Labour and Social Welfare)

060/2019 The Member for Kinango Constituency (Hon. Benjamin Dalu Stephen Tayari, MP) to ask the Cabinet Secretary for Lands:-

- (a) Could the Cabinet Secretary explain how the adjudication process at Maji Ya Chumvi area of Kinango Constituency was done and how the following parcels of land were adjudicated: **L.R. numbers Kinango/Maji Ya Chumvi/Plot No. 2, 3, 67, 68, 69, 70, 275, 358, 365, 366, 367, 423, and 424?**
- (b) Could the Cabinet Secretary further explain why the title deed for land reference number **Kinango/Maji Ya Chumvi/Plot No. 2** has not been returned to the Registrar of Lands as requested?

(To be replied before the Departmental Committee on Lands)

061/2019 The Member for Kiambu County (Hon. Gathoni Wamuchomba, MP) to ask the Cabinet Secretary for Agriculture, Livestock, Fisheries & the Blue Economy: -

- (a) Could the Cabinet Secretary provide details on the quantities of eggs imported into the country for the period 2017 – 2018 indicating the countries of origin and the firms/companies licensed to import eggs and what criteria is used in licensing of such companies?
- (b) What is the country's egg production level vis-a-vis consumption level?
- (c) What measures is the Ministry taking to regulate importation of eggs with a view to protecting the local poultry farmers?

(To be replied before the Departmental Committee on Agriculture and Livestock)

062/2019 The Member for Mathare Constituency (Hon. Anthony Tom Oluoch, MP) to ask the Cabinet Secretary for Health:-

- (a) Could the Cabinet Secretary state how many patients are currently held at National and other private health institutions for non-payment of medical bills?
- (b) How many bodies of patients who died during treatment are being held in National and other private mortuaries for inability

to settle hospital or mortuary fees?

- (c) What is the total amount owed to these health facilities in respect of patients both alive and dead, and what is the Ministry doing to deal with the accumulation of such cases?
- (d) Is the Cabinet Secretary aware that some health institutions have detention rooms for defaulting patients and what steps are being taken to deal with this vice?

(To be replied before the Departmental Committee on Health)

063/2019

The Member for Kilifi North Constituency (Hon. Owen Baya Yaa, MP) to ask the Cabinet Secretary for National Treasury & Planning: -

- (a) Could the Cabinet Secretary explain the status of all projects funded through the Equalization Fund for the FY year 2017/18 in Kilifi County, stating the list of projects, amount disbursed and their stages in regard to completion?
- (b) Could the Cabinet Secretary further state how much is expected to be disbursed before the end of the current financial year 2018/19 for Kilifi County, and by when?
- (c) Could the Cabinet Secretary provide details on whether public participation will be conducted to identify the projects in Kilifi County?

(To be replied before the Departmental Committee on Finance and National Planning)
