



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, FEBRUARY 28, 2019

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

The Speaker conveyed the following Communications –

(i) **Delegation from Parliament of Malawi**

“Honourable Members,

I wish to introduce to you a delegation of Members of Parliament and Staff from the Parliament of Malawi seated at the Speaker’s Row. The delegation comprises-

- (i) The Rt. Hon. Richard Msowoya, MP - Speaker and Leader of Delegation;
- (ii) The Hon. Lobin Lowe, MP – Chief Whip, Malawi Congress Party and,
- (iii) The Hon. Raphael Mhone, MP - Leader of the People’s Party.

The delegation is accompanied by: -

1. Mr. Joseph Manzi - Senior Assistant Clerk of Parliament;
2. Mr. Leonard Mungezi - Assistant Clerk of Parliament (Protocol); and
3. Mr. Vitumbiko Chitaya - Personal Assistant to the Speaker.

Honourable Members, the delegation, which is drawn from the Membership of the House Business Committee, is in the country on a benchmarking visit to our Parliament, specifically to share experiences and learn good practices with our counterpart Committee and other offices.

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the Country.

Thank you.”

(ii) **Guidance On Consideration Of The President’s Reservations to the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018)**

“Honourable Members,

Before the House resolves into Committee of the Whole House to Consider the President’s Reservations to the Health Laws (Amendment) Bill (National Assembly Bill No. 14 of 2018), I wish to provide guidance on the procedure of considering amendments thereto.

Honourable Members, as you are aware, consideration of the President’s Memorandum to any Bill is guided by the provisions of the Constitution, the Standing Orders as well as the *Communication* I issued on 28th July 2015 which refined the procedure more empirically and specifically. It is within this context and background that I wish to guide the House on the amendments proposed by the Departmental Committee on Health to the President’s Memorandum, which are appearing on the Order Paper.

Honourable Members, the Departmental Committee on Health proposes that the Presidential Memorandum be amended–

- 1) in section 3(1) of the proposed amendments to the Pharmacy and Poisons Act, Cap. 244, by deleting paragraph (e); and
- 2) in the proposed amendments to the Nurses Act, Cap. 257–
 - (a) in section 4(1), by deleting the word “two” appearing in paragraph (h) and substituting therefor the word “one”; and
 - (b) by deleting the proposed amendment to section 9(1)(i).

Honourable Members, the proposed further amendment to section 3(1) of the Pharmacy and Poisons Act, Cap. 244 deletes paragraph (e), which provides for two persons representing training institutions as members of the Pharmacy and Poisons Board. The new paragraph (f) as contained in the Presidential Memorandum also provides for the appointment of two representatives of training institutions into the Pharmacy and Poisons Board. This new paragraph (f) introduces the appointment of a pharmacist representing institutions of higher learning as well as a pharmaceutical technologist representing mid-level colleges. The Committee therefore proposes to delete paragraph (e) so as to avoid the over-representation of training institutions in the Board.

Honourable Members, the Committee’s recommendation is therefore in keeping with the principle underlying the President’s reservation, which is to align the Act with the current government policy of limiting the membership of Boards to manageable numbers for effectiveness and efficiency. This amendment therefore fully accommodates the President’s reservations, and the provision of Article 122(1) will apply.

Consequently, a simple majority will suffice to consider the proposed amendment by the Departmental Committee of Health to the Pharmacy and Poisons Act, Cap. 244.

Honourable Members, the effect of the proposed further amendment to section 4(1)(h) of the Nurses Act, Cap. 257 is to reduce the number of persons nominated by the Cabinet Secretary to represent the public in the Nursing Council, from two to one. The President's Memorandum introduces the Director General of Health in the membership of the Nursing Council, thereby increasing the total membership of the Council. The Committee propose to retain the membership of the Council at nine members (excluding the *ex officio* member) by reducing the number of persons nominated by the Cabinet Secretary. The Committee in doing this concurs with the President's reservation on the need to include the Director General for Health as a member of the Council, in keeping with the current government policy of including the Director General for Health as a member of the regulatory bodies within the health sector. This amendment therefore fully accommodates the President's reservations, and the provision of Article 122(1) of the Constitution will apply. Consequently, a simple majority will suffice to consider the proposed amendment by the Departmental Committee of Health to Section 4(1) of the Nurses Act, Cap. 257.

Finally, Honourable Members, the proposed Committee amendment to section 9(1)(i) of the Nurses Act, Cap. 257 deletes the President's proposed text to delete the regulation of the standards of nursing commodities as a function of the Nursing Council. The Committee seems to be of the view that the regulation of the standards of nursing commodities is a function that should be retained by the Nursing Council until such time as Parliament enacts a single regulatory body for the regulation of health products and health technologies, as provided in section 62 of the Health Act, No. 21 of 2017. This amendment therefore does not accommodate the President's reservations and is indeed a direct negative. In this case, the provisions of Article 115(4)(a) of the Constitution will apply. Consequently, passage of Section 9(1)(i) of the Nurses Act, Cap. 257 will require support of at least two-thirds of the membership of this House.

In summary, Honourable Members, as regards the amendments proposed to the President's Memorandum by the Departmental Committee on Health, I wish to guide the House -

- 1) THAT, the passage of the Committee's amendment to section 3(1) of the proposed text to the Pharmacy and Poisons Act, Cap. 244 shall require a simple majority;
- 2) THAT, the passage of the Committee's amendment to section 4(1) of the proposed text to the Nurses Act, Cap. 257 shall require a simple majority; and
- 3) THAT, the passage of the Committee's amendment to section 9(1)(i) of the Nurses Act, Cap. 257 shall require support of at least two thirds of the membership of the House as it proposes to negate the reservations of the President; and,

With regard to the text of the amendments recommended by the President, which will essentially be moved by the Leader of the Majority Party, the guidance contained in my *Communication* of 28th July 2015 will apply. Indeed, I have reiterated the contents of that Communication severally, particularly on –

- (i) the simple majority requirements for agreement with the text proposed in the President's reservations; and,
- (ii) the two-thirds voting requirements in respect of any proposal to negate the text proposed in the President's reservations.

Please be advised accordingly”.

I thank you.”

5. **PAPERS LAID**

The following Papers were laid on the Table –

- a) Quarterly Economic and Budgetary Review (First half of the Financial Year 2018/2019) from the National Treasury and Planning; and
- b) The Post-Election Evaluation Report for the August 8th, 2017 General Election and October 26th, 2017 Fresh Presidential Election from the Independent Electoral and Boundaries Commission (IEBC).

(The Leader of the Majority Party)

- c) Report of Departmental Committee on Finance and National Planning on its consideration of the Public Finance Management (Amendment) Bill, 2017.

(Chairperson, Departmental Committee on Finance and Planning)

6. **NOTICE OF MOTION – FORMULATION AND IMPLEMENTATION OF A POLICY ON RECRUITMENT AND REMUNERATION OF VILLAGE ELDERS**

THAT, aware that the Village Elders are foundational representatives of the National Government who play an important role in Government Administration at the grassroots, further aware that the village elders assist in coordinating National Government services such education, dispute resolution, security and other social services in their villages through popular "Nyumba Kumi" initiative; conscious that these officers discharge these important duties without any necessary facilitation by the Government there is need to recognize them as civil servants of the lowest tier, cognizant of the need to appreciate and motivate the village elders to effectively perform their work this **House resolves** that the National Government formulates and implement a policy on recruitment and remuneration of village elders.

(Hon. Gitonga Murugara)

7. **QUESTIONS**

The following Questions were asked –

- (i) Question No.069/2019 by the Member for Baringo Central (Hon. Joshua Kandie) regarding increased cases of insecurity in Baringo Central Constituency; Question referred to the Departmental Committee on Administration and National Security;

- (ii) Question No.070/2019 by the Member for Kuresoi South (Hon. Joseph Tonui) regarding crisis in the issuance of birth certificates around the country; Question referred to the Departmental Committee on Administration and National Security;
- (iii) Question No.071/2019 by the Member for Taita Taveta (Hon. Haika Mizighi) regarding loss of lives and properties due to human-wildlife conflict; Question referred to the Departmental Committee on Environment and Natural Resources;
- (iv) Question No.072/2019 by the Member for Central Imenti (Hon. Moses Kirima) regarding declaration of Kiamuri “B” area in Central Imentias an adjudication area for the last ten years and issuance of title deeds to the residents; Question referred to the Departmental Committee on Lands;
- (v) Question No.073/2019 by the Member for Kirinyaga Central (Hon. John Munene Wambugu) regarding lack of basic facilities for provision of quality education in special units classes in Public Primary schools in Mukinduri, Kianjege East, Kangaita and Kiranja; Question referred to the Departmental Committee on Education and Research;
- (vi) Question No.074/2019 by the Member for Kitui County (Hon. Irene Kasalu) regarding students being denied Kenya Certificate of Secondary Education, Certificates in public Secondary Schools in Kitui County due to fees arrears; Question referred to the Departmental Committee on Education and Research.

8. **STATEMENT**

Pursuant to the provisions 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, March 05, 2018.

9. **POINT OF ORDER**

The Leader of the Majority Party stood on a point of order under Standing Order 40(2), requesting the Speaker to reorganize the sequence of business in the Order Paper.

The Speaker, having acceded to the claim, directed that for the convenience of the House, the business appearing as Order Numbers 11 and 10, be disposed of immediately after business appearing as Order Number 8, in that order, before resuming the sequence of business as listed in the Order Paper.

10. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2018)**

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 Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018).

(Chairperson, Departmental Committee on Finance and National Planning)

Question put and agreed to;

Motion made and Question proposed -

THAT, the Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018) be now read a Third Time

(Chairperson, Departmental Committee on Finance and National Planning)

Question put and agreed to;

Bill read a Third Time and passed.

11. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The First Chairperson in the Chair

PRESIDENT'S RESERVATIONS TO THE HEALTH LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2019)

President's Reservations to Provisions relating to the Pharmacy and Poisons Act, Cap. 244-

Section 2 - amendment proposed -

THAT, the Schedule to the Bill be amended —

(1) in the proposed amendments to the **Pharmacy and Poisons Act, Cap. 244-**

(a) in section 2, by—

- (i) deleting the definition of the term “pharmaceutical device”;
- (ii) deleting the definition of the term “pharmaceutical equipment”;
- (iii) deleting the definition of the term “pharmaceutical product”;
- (iv) deleting the definition of the term “Good Manufacturing Practice” and substituting therefor the following new definition—
“Good Manufacturing Practice”, also referred to as “GMP”, “cGMP” or “current Good Manufacturing Practice” is the part of quality management which ensures that products are consistently produced and controlled according to their intended use as required by the marketing authorization, clinical trial authorization or product specification;

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 2 - as amended agreed to

Section 3(1) - amendment proposed -

THAT, the Presidential memorandum be amended-

- 1) in section 3(1) of the proposed amendments to the **Pharmacy and Poisons Act, Cap. 244**, by deleting paragraph (e);

(Subject to Standing Order 154(4))

(Chairperson of the Departmental Committee on Health)

Question of the amendment proposed;

Amendment **dropped**

New section 3(1) - amendment proposed -

THAT, the Schedule to the Bill be amended —

(b) in the proposed new section 3(1), by-

- (i) deleting paragraph (d);
- (ii) deleting paragraph (f) and substituting therefor the following new paragraph-

“(f) three other persons appointed by the Cabinet Secretary, of whom-

- (i) one person shall be a pharmacist representing institutions of higher learning;
- (ii) one person shall be a pharmaceutical technologist representing mid-level colleges; and
- (iii) one person shall be an enrolled pharmaceutical technologist with expertise in community pharmacy nominated by the Kenya Pharmaceutical Association;”

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

New section 3(1) - as amended agreed to

New section 3B (3) - amendment proposed -

THAT, the Schedule to the Bill be amended —

- (c) in the proposed new section 3B(3), by deleting paragraph (g) and substituting therefor the following new paragraph-

“(g) approve institutions to be established or accredited under the Universities Act, 2012 training pharmacists and mid-level institutions training pharmaceutical technologists”

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

New section 3B (3) - as amended agreed to

Section 24 - amendment proposed -

THAT, the Schedule to the Bill be amended —

(a) by deleting the proposed amendment to section 24;

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 24 as amended - agreed to

President's amendments to provisions relating to the Pharmacy and Poisons Act, Cap. 244-
agreed to

President's Reservations to Provisions relating to the Medical Practitioners and Dentists Act, Cap 253-

New section 4B - amendment proposed -

THAT, the Schedule to the Bill be amended —

(2) in the proposed new section 4B of the proposed amendments to the **Medical Practitioners and Dentists Act, Cap 253**, by deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) invest any of the funds of the Council not immediately required for its purposes in accordance with the Public Finance Management Act and other relevant laws.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

New section 4B as amended - agreed to

President's amendments to provisions relating to the Medical Practitioners and Dentists Act, Cap 253 - agreed to

President's Reservations to Provisions relating to the Nurses Act, Cap 257-

Section 4(1) - amendment proposed -

THAT, the Schedule to the Bill be amended —

(1) in the proposed amendments to the **Nurses Act, Cap 257-**

(a) in section 4(1), by inserting the following new paragraph immediately after paragraph (i)-

“(j) the Director General of health or a representative appointed in writing by the Director General of health”

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 4 (1) as amended - agreed to

Section 4 (1) - further amendment proposed -

THAT, the Schedule to the Bill be amended —

2) in the proposed amendments to the **Nurses Act, Cap. 257-**

(c) in section 4(1), by deleting the word “two” appearing in paragraph (h) and substituting therefor the word “one”;

(Chairperson of the Departmental Committee on Health)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment to section 4 (1) - agreed to

Section 9(1) - amendment proposed -

THAT, the Schedule to the Bill be amended —

(b) in section 9(1), by deleting the words “nursing commodities” appearing in paragraph (i);

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 9 (1) as amended - agreed to

Section 9 (1) - further amendment proposed -

THAT, the Schedule to the Bill be amended —

(a) by deleting the proposed amendment to section 9(1)(i).

(Chairperson of the Departmental Committee on Health)

Amendment dropped as it did not meet the Constitutional threshold of two-thirds majority

Section 11 - amendment proposed -

THAT, the Schedule to the Bill be amended —

(c) in section 11, by deleting subsection (5) and substituting therefor the following new subsection—

“(5) The officers appointed under this section shall be paid such remuneration and allowances as the Council may, on the advice of the Salaries and remuneration Commission, determine.”

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 11 as amended - agreed to

President's amendments to provisions relating to the **Nurses Act, Cap. 257**- agreed to

President's Reservations to Provisions relating to the Counsellors and Psychologists Act, 2014, No. 14 of 2014-

Sections 15, 16, 17, 18, 19, 20, 21, and 22 - amendment proposed -

THAT, the Schedule to the Bill be amended —

(2) by inserting the following new amendments in the Schedule to the proposed amendments to the **Counsellors and Psychologists Act, 2014, No. 14 of 2014-**

- s.15 Delete.
- s.16 Delete.
- s.17 Delete.
- s.18 Delete.
- s.19 Delete.
- s.20 Delete.
- s.21 Delete.
- s.22 Delete.

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Sections 15, 16, 17, 18, 19, 20, 21, and 22 as amended - agreed to

Third and Fourth schedules - amendment proposed -

THAT, the Schedule to the Bill be amended —

(1) by inserting the following new amendments in the Schedule to the proposed amendments to the **Counsellors and Psychologists Act, 2014, No. 14 of 2014-**

- Third Delete.
- Schedule.
- Fourth Delete.
- Schedule.

(The Leader of the Majority Party)

Question of the amendments proposed;

Debate arising;

Question put and agreed to;

Third and Fourth schedule as amended - agreed to

President's amendments to provisions relating to the Counsellors and Psychologists Act, 2014, No. 14 of 2014 - agreed to

President's Reservations to the Provisions relating to the Clinical Officers (Training, Registration and Licensing) Act, No. 20 of 2017-

Section 4(1) - amendment proposed -

THAT, the Schedule to the Bill be amended —

(1) in section 4(1) of the proposed amendments to the **Clinical Officers (Training, Registration and Licensing) Act, No. 20 of 2017**, by-

(a) inserting the following new sub-paragraph immediately after sub-paragraph (a)(ii)-

“(iii) be registered as a clinical officer under this Act”

(b) deleting paragraph (f) and substituting therefor the following new paragraph-

“(f) one clinical officer representing universities training clinical officers elected by the teaching staff from among their number;”

(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Section 4(1) as amended - agreed to

President's amendments to provisions relating Clinical Officers (Training, Registration and Licensing) Act, No. 20 of 2017 - agreed to

President's Reservations to the Bill to be reported with amendments.

12. **HOUSE RESUMED** - the Speaker in the Chair

Bill reported with amendments.

Motion made and Question proposed -

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

(The Leader of the Majority Party)

Question put and agreed to.

President's Reservations to the Bill passed with amendments.

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

Motion made and Question proposed –

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.*

(Chairperson, Budget & Appropriations Committee – 27.02.2019)

Debate interrupted on Wednesday, February 27, 2019 (Afternoon Sitting) resumed;

[Change of Chair from Speaker to Third Chairperson]

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

14. **HOUSE ROSE** - at Seven O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, March 05, 2019 at 2.30 p.m.

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