



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, APRIL 30, 2019

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

The Speaker Conveyed the following Communications:-

i. ON RESOLUTIONS OF THE SECOND LEADERSHIP RETREAT OF THE NATIONAL ASSEMBLY

“Honourable Members, as you all may be aware, the Second National Assembly Leadership Retreat took place last week between 25th and 28th of April 2019 at the Sarova Whitesands Beach Resort & Spa in Mombasa. The retreat was part of a continuing tradition by the leadership of this House to hold *Leadership Retreats* aimed at taking stock of progress made in the various legislative sectors while setting the agenda and preparing the House for upcoming business.

The Retreat under the theme *“Consolidating synergy and safeguarding the gains for the Welfare of Society”* came at an opportune time following the commencement of the Third Session of this Parliament and right in the middle of the budget cycle. It also provided an avenue for the House Leadership to interact, share experiences and chart a way forward that will guide the business of the House during this Session. It also did provide an opportunity for Chairpersons and Vice Chairpersons of Committees to share their experiences on the legislative processes currently in place including the management of Parliamentary Questions and Petitions.

The participants in the Retreat included Presiding Officers, Leaders of the Majority and Minority Parties and their Deputies, Commissioners of the Parliamentary Service Commission (PSC), Whips of the Majority and Minority parties and their Deputies, Chairpersons and Vice Chairpersons of all committees, Members of the House Business Committee and a section of the membership of the Procedure and House Rules Committee, journalists who cover parliamentary proceedings as well as senior parliamentary staff.

The retreat benefitted from the presentations and experiences of a cross section of leaders, members of the Executive, representatives of the private sector, experts and resource

persons from The National Treasury, Ministry of Interior and Coordination of National Government, Kenya Institute of Public Policy Research and Analysis (KIPPRA), Kenya National Bureau of Statistics (KNBS), representatives of security agencies and the leadership of the Parliamentary Service Commission.

Honourable Members, the Conference discussed various topics including on the Big Four Agenda, Blue Economy and National Security; Governance and National Security in the 21st Century; Population Statistics and Issues for National Planning, including key national demographics, what the statistics and projections portend for the future, implications on the national planning, state of preparedness of the 2019 national population census and the role of Parliament in fulfilling legislative and budgetary interventions to mitigate the challenges; and, a discussion on Tools for Effective Oversight and Public Petition including taking stock of the new procedure for Questions and Public Petition and receiving feedback from Committee Chairpersons on the effectiveness of the new procedure for Questions, and the Petitions to Parliament law, rules and procedure and identifying areas for improvement.

Honourable Members, the conference also discussed the very important subject of Public Debt, implications to the economy and budget financing measures, what were the key drivers to the rise in public debt, the question of sustainability and medium term debt strategies to be put in place, the formal debt versus the informal debt and the rising pending bills at the national and at the county levels and whether there was room for borrowing by counties.

The retreat also did discuss the approval of the budget estimates and revenue raising measures, the interest rate capping, the place of Provisional Collection of Taxes and Duties Act (CAP 415) on taxation measures, and the timelines for presentation and passage of the Finance Bills.

The issue of delayed payments to suppliers and the implication to the velocity of money, economic growth and industrialization, was extensively discussed.

Honourable Members, the Parliamentary Service Commission committed to continue providing and improving services and facilities for efficient and effective functioning of the National Assembly.

At the conclusion of the Leadership Retreat adopted a raft of resolutions including a proposal to broadcast Committee proceedings when Cabinet Secretaries are answering parliamentary questions so that the public is able to understand pronouncements made on key public policies. It was also resolved that Committees adhere to their mandates to avoid duplication of roles and proposing different recommendations when undertaking inquiries on similar issues. Committees should also ensure that public participation is well documented in their reports to cushion the House from unnecessary, and at times uncalled for judicial challenge. It was also agreed that Committee leadership should follow established practice of giving adequate notice to witnesses of at least seven days before they appear before the Committees. The workshop also resolved to prioritise training of Vice-Chairpersons.

Honourable Members, in the interest of deepening bicameral comity between the Houses of Parliament, the House will ensure improved consultation and cooperation between the National Assembly and the Senate to build synergy during the legislative process and limit duplication of effort and to reduce the chances for resorting to mediation.

On the very important issue of security for Members, it was agreed that, in consultation with my Office, the National Police Service will consider a phased-out withdrawal and replacement of security attached to Members of Parliament whenever there is need to undertake such an exercise. To safeguard the security of Members, the National Police Service should exercise good discretion when dealing with security matters affecting Members and arbitrary withdrawal of security should never be applied. The National Assembly will, through its Committees, invite the relevant Security Agencies to offer training and sensitization awareness to Members of Parliament on matters security.

Honourable Members, the resolutions reached at the Retreat will be contained in a Report to be presented to the House. I thank you.

5. PAPERS LAID

The following Papers were laid on the Table –

- (i) Legal Notice No. 24 of 2019 relating to the Public Finance Management (Tourism Promotion Fund) Regulations, 2019 and the Explanatory Memorandum from the National Treasury (*referred to the Committee on Delegated Legislation*).
- (ii) Legal Notice No. 23 of 2019 relating to the Air Passenger Service Charge Act (Apportionment) Order, 2018 and the Explanatory Memorandum from the National Treasury (*referred to the Committee on Delegated Legislation*).
- (iii) FY 2019/2020 Programme Based Budget of the National Government of Kenya for the year ending 30th June, 2020.
- (iv) FY 2019/2020 Estimates of Revenue Grants and Loans of the Government of Kenya for the year ending 30th June, 2020.
- (v) FY 2019/2020 Estimates of Recurrent Expenditure of the Government of Kenya for the year ending 30th June, 2020, Volumes I and II.
- (vi) FY 2019/2020 Estimates of Development Expenditure of the Government of Kenya for the year ending 30th June, 2020, Volumes I, II and III.
- (vii) The Budget Summary for the fiscal year 2019/20 and the supporting information from the National Treasury.
- (viii) FY 2019/2020 List of Projects of the National Government of Kenya for the year ending 30th June, 2020 from the National Treasury.
- (ix) FY 2019/2020 Annex of Estimates of Revenue and Expenditure for State Corporations of the Government of Kenya for the financial year ending 30th June, 2020 from the National Treasury.
- (x) Financial Estimates for the Parliamentary Service Commission for the FY 2019/2020.
- (xi) Estimates of Revenue to and Expenditure from Equalization Fund for FY 2019/2020.
- (xii) Reports of the Auditor General on the financial statements in respect of the following Institutions for the year ending 30th June, 2018 and the certificates therein: -

- a) Consolidated Fund Services - Salaries, Allowances and Miscellaneous Services; and,
- b) Receiver of Revenue (Recurrent) from the National Treasury.

(The Leader of the Majority Party)

- (xiii) Report of the Departmental Committee on Lands on its consideration of a Petition by residents of Embakasi West Constituency regarding non-issuance of Title Deeds to the area residents.

(Chairperson, Departmental Committee on Lands)

- (xiv) Report of the Public Investments Committee on the inquiry into procurement and implementation of the Excisable Goods Management System for printing, supply and delivery of Security Revenue Stamps complete with Track and Trace System and an Integrated Production Accounting System by the Kenya Revenue Authority.

(Chairperson, Public Investments Committee)

- (xv) Report of the Select Committee on National Integration and Equal Opportunity on its consideration of the National Cohesion and Integration Bill (National Assembly Bill No. 12 of 2019).

(Chairperson, Committee on National Integration and Equal Opportunity)

6. NOTICES OF MOTION

The following Notices were given –

- a) **REVIEW OF THE MANDATORY RETIREMENT AGE IN THE PUBLIC SERVICE**

THAT, aware that seventy-five percent of Kenya's population is under the age of thirty-five years and that, the overall unemployment among the youth is at fifty-five percent; further aware that over 800,000 graduates from Universities, Colleges, Technical Institutes, Vocational Centres and other tertiary institutions join the job market annually with only approximately 70,000 being absorbed into the formal labour force market; concerned that the high rate of unemployment in Kenya, particularly among the youth remains a major challenge; recognizing that Article 55 of the Constitution requires the state to take measures to ensure that the youth gain access to relevant education, training and employment; noting that the mandatory retirement age for public servants is set at sixty (60) years; this House urges the Government to review the mandatory retirement age in the public service from the current sixty to fifty years to among other things, create opportunities for the employment of the youth.

(Hon. Charles Kanyo Njagua, MP (Starehe Constituency))

- b) **POLICY MEASURES TO ENSURE 100 PERCENT TRANSITION FROM SECONDARY EDUCATION TO TERTIARY EDUCATION**

THAT, aware that according to available data from the country's education sector, a huge percentage of the students who sit for the Kenya Certificate of Secondary Education do not transition to Universities to pursue degree courses; further aware that technical skills and knowledge are fundamental in every profession; concerned

that despite the importance of technical and vocational training in teaching necessary skills and building adequate human capital to achieve and sustain the Country, its uptake in the Country remains low; cognizant that promotion of technical and vocational education and skills alongside academics provides a mix of professionals and skills that the economy requires so as to create balanced

manpower requirements; recognizing that Article 55 of the Constitution requires the state to take measures to ensure that the youth access relevant education

and training; appreciating the Government's policy of achieving 100 per cent transition of pupils from primary to secondary schools which has seen a huge increase in enrollment in

secondary schools; this House resolves that the Government puts in place policy measures to ensure 100 percent transition from secondary to tertiary education.

(Hon. John Munene, MP (Kirinyaga Central Constituency))

- c) THAT, this House adopts the Report of the Public Investments Committee on the inquiry into procurement and implementation of the Excisable Goods Management System for printing, supply and delivery of Security Revenue Stamps complete with Track and Trace System and an Integrated Production Accounting System by the Kenya Revenue Authority, *laid on the Table of House on Tuesday, April 30, 2019.*

(The Chairperson, Public Investment Committee, the Hon. Abdulsamad Sharrif Nassir, MP)

7. QUESTIONS

The following Questions were asked -

- (i) Question No.209/2019 by the Member for Githunguri (Hon. Gabriel Kago) regarding the state of Nyaga-Kiambururu-Kamuchege road;

(To be answered by the Cabinet Secretary for Transport, Public Works and Infrastructure before the Departmental Committee on Transport, Public Works and Housing)

- (ii) Question No.210/2019 by the Member for Kaloleni (Hon. Paul Katana) regarding the formulation of regulations and other policy measures for the development of scheduled crops and promotion of value addition for coconut crop;

(To be answered by the Cabinet Secretary for Agriculture before the Departmental Committee on Agriculture and Livestock)

Question No.212/2019 by the Member for Bumula (Hon. Mwambu Mabonga) regarding the gazettment of the proposed two sub counties in Bumula constituency;

(To be answered by the Cabinet Secretary for Interior and Co-ordination of National Government before the Departmental Committee on Administration and National Security)

- (iii) Question No.214/2019 by the Member for Lugari (Hon. Ayub Savula) regarding circumstances under which Barclays and Standard banks are issuing fourteen days' notice for closing clients' accounts;

(To be answered by the Cabinet Secretary for National Treasury before the Departmental Committee on Finance and National Planning)

- (iv) Question No.215/2019 by the Member for Bonchari (Hon. John Oyioka) regarding Kisii Land Registry being served by one land registrar and measures in place to automate services in the land registry;

(To be answered by the Cabinet Secretary for Lands before the Departmental Committee on Lands)

- (v) Question No.216/2019 by the Member for Moyale (Hon. Qalicha Wario) regarding criteria for distribution of Presidential Bursary meant for secondary schools;

(To be answered by the Cabinet Secretary for Education before the Departmental Committee on Education and Research)

8. MOTION-DEBATE ON THE PRESIDENT'S ADDRESS (DAY 4)

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 24(6), the thanks of this House be recorded for the exposition of public policy contained in the Address of H.E. the President delivered in Parliament on Thursday, April 4, 2019 and further that the House **notes** the following Reports submitted by the President in fulfillment of the provisions of Articles 132(1) (c) and 240(7) of the Constitution, laid on the Table of the House on Tuesday, April 23, 2019-

- (a) 6th Annual Report on the Progress made in fulfillment of the International Obligations of the Republic;
- (b) 6th Annual Report on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance; and
- (c) Annual Report to Parliament on the State of National Security.

(The Leader of the Majority Party – 23.04.2019)

Debate on the Motion having been concluded on Thursday, April 25, 2019;

Question put and agreed to.

9. GUIDE ON ADMISSIBILITY OF PART OF THE PROVISIONS OF THE STATUTE LAW THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 13 OF 2018)

The Speaker Conveyed the following Communication:-

Honourable Members, before we proceed to the next Order being the Committee of the Whole House on the Statute Law (Miscellaneous Amendments) (No. 2) Bill, (National Assembly Bill No. 13 of 2018), I wish to offer the following guidance-

From the onset, **Honourable Members**, may I remind the House that the provisions relating to the following Acts were withdrawn by the Mover as conveyed in my Communication of, March 7, 2019:-

- (i) The provisions proposing to amend the Cooperative Societies Act, (Cap. 490);
- (ii) The provisions proposing to amend the Sacco Societies Act, (No. 14 of 2008); and,
- (iii) The provisions proposing to amend the Statistics Act, (No. 4 of 2006).

Secondly, **Honourable Members**, the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 13 of 2018), is also proposing to amend the Energy Act, (No. 12 of 2006). In view of the fact that the Energy Act, 2006 was repealed early this year when Parliament enacted the Energy Act, 2019, the provisions proposing to amend the Energy Act, of 2006 as contained in the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 13 of 2018) **stands invalidated and shall not be considered in Committee of the whole House**. This is because the principal law referred to in the Bill no longer exists.

Thirdly, **Honourable Members**, regarding the Urban Areas and Cities Act, (No. 13 of 2011), the Clerk has since advised me that the provisions proposing to amend the said Act, do not conflict with the recently enacted Urban Areas and Cities Act No. 3 of 2019. **The Committee of the whole House may therefore proceed to consider the said provisions as contained in the Bill** and any other amendments proposed by Members.

Fourthly, **Honourable Members**, regarding the Public Private Partnership Act, (No. 15 of 2013), you will note that the Bill proposes to amend the following sections in the Act- *sections 4, 5, 6, 14, 17, 27, 28, 30, 31, 33, 37, 45, 48, 52, 54, 57, 58, 61, 64, 65 and 71.*

In this respect, the House is aware of a separate Bill, namely, the Public Private Partnership (Amendment) Bill, 2017 which is in an advanced stage, having been passed by this House, forwarded to the Senate and what is now awaited is the consideration of the Senate's amendments by this House. A perusal of the two Bills reveal that they are both proposing to amend sections 31, 37, 45, 54 and 57. **In this regard** and in keeping with the Standing Orders No. 133(6) which provides that *no amendment shall be moved which is inconsistent with any part of the Bill already agreed to or any decision already made by the Committee*, the provisions to amend sections 31, 37, 45, 54 and 57 **as contained in the Statute Law (Miscellaneous Amendment) Bill, 2018 shall not be considered in the Committee of the Whole House**. This includes any other amendments proposed any Members to the said sections of the principal Act.

Lastly, **Honourable Members**, I now draw the attention of the House to the amendments proposed by **Member for Gatundu South (The Hon. Moses Kuria)** to provisions relating

to the Public Procurement and Asset Disposal Act, 2015. For the benefit of the House, the objective of the amendments is to address his concern of pending bills and delayed payments to suppliers of goods and services to the public sector.

Honourable Members, I have subjected the said proposed amendments to the procedure relating to “money-bills” as required by Article 114 of the Constitution and our Standing Order 231. I am advised that the Budget and Appropriations Committee **has recommended that the House does proceed to consider the proposed amendments.** In this regard, the amendments proposed by the Member for Gatundu South with respect to insertion new clauses 87A and 87B under section 87 of the Public Procurement and Asset Disposal Act, 2015 **may be considered by the Committee of the whole House.**

Honourable Members, the House stands guided and accordingly informed. **I thank you!**

10. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Second Chairperson of Committees in the Chair

The Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 13 of 2018)

CLAUSE 2 - agreed to.

SCHEDULE -

Provisions relating to the Betting, Lotteries and Gaming Act (CAP 131)

Proposed amendment to Section 2 - amendment proposed

Further amendment proposed;

THAT the Schedule to the Bill be amended in the proposed amendments to section 2 by deleting the proposed definition of “Minister” and substituting therefor the following amendment—

- s.2 Insert the following new definition in its proper alphabetical sequence—
 “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to Betting, Gaming and Lotteries.

(Chairperson, Departmental Committee on Sports, Tourism and Culture)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Amendment to section 2 as further amended - agreed to.

(Change of Chair to Fourth Chairperson)

Proposed amendment to section 3(2A) - amendment proposed

Further amendment proposed;

THAT the Schedule to the Bill be amended by deleting the proposed amendment to section 3(2A);

(Chairperson, Departmental Committee on Sports, Tourism and Culture)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Amendment to section 3(2A) - agreed to.

PROGRESS REPORT

Motion made and Question proposed -

THAT, the Committee of the whole House do report progress and seeks leave to sit again

(Leader of the Majority Party)

Question put and agreed to.

11. HOUSE RESUMED - Deputy Speaker on the Chair

Progress reported

THAT the Committee do Report to the House its consideration the Statute Law (Miscellaneous Amendments)(No. 2) Bill (National Assembly Bill No. 13 of 2018) up to section 3(2A) of the provisions relating to Betting, Lotteries and Gaming Act (CAP 131), and its approval thereof with amendments and seek leave to sit again

(Leader of the Majority Party)

Question put and agreed to.

12. MOTION REPORTS OF THE KENYA DELEGATION TO SESSIONS OF THE ACP-EU JOINT PARLIAMENTARY ASSEMBLY

Motion made and question proposed -

THAT, this House notes the Reports of the Kenya Delegation to the Sessions of the African Caribbean and Pacific Parliamentary Assembly and the African Caribbean, Pacific and European Union (ACP-EU) Joint Parliamentary Assembly *laid on the Table of the House on Wednesday 27th February 2019* as follows:

- (i) Report of the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 13th to 20th June 2018;
- (ii) Report of the 51st Session of the ACP Parliamentary Assembly and the Intercessional Meetings of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 9th to 11th October, 2018; and
- (iii) Report of the 52nd Session of the ACP Parliamentary Assembly and the 36th Session of the ACP-EU Joint Parliamentary Assembly held in Cotonou, Benin from 25th November 2018 to 5th December 2018.

(ACP-EU Leader of Delegation 23.04.2019)

Debate interrupted on Tuesday, April 23, 2019 resumed;

(Change of Chair to Third Chairperson)

There being no Member wishing to contribute;

Mover replied;

Putting of the question deferred pursuant to Standing Order 53(3).

13. THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILL NO. 3 OF 2018)

Order for Second Reading read;

Order deferred.

14. MOTION - REPORT ON THE EXAMINATION OF THE FINANCIAL STATEMENTS OF THE NATIONAL GOVERNMENT FOR THE FINANCIAL YEAR 2015/2016

Motion made

THAT, this House **adopts** the Report of the Public Accounts Committee on its examination of the Report of the Auditor General on the Financial Statements for the National Government for the Financial Year 2015/2016, *laid on the Table of House on Tuesday, April 23, 2019.*

(The Chairperson, Public Accounts Committee)

15. QUORUM OF THE HOUSE

Rising in her place on a Point of Order under Standing Order 35, the Member for Kajiado East (Hon. Peris Tobiko) drew the attention of the Third Chairperson to the fact that there was no Quorum in the House;

And the Chairperson having counted the Honourable Members present and confirmed that there was no Quorum caused the Division Bell to be rung;

And there being **no** Quorum after expiry of ten minutes;

And the time being fifty two minutes past four O'clock, the Third Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

16. HOUSE ROSE - at eight minutes to five O'clock

MEMORANDUM

The Speaker will take the Chair on
Thursday, May 02, 2019 at 2.30 p.m.

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