



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

TUESDAY, JUNE 11, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements
8. **MOTION- SITTINGS OF THE SENATE OUTSIDE PARLIAMENT BUILDINGS, NAIROBI**
(The Senate Majority Leader)

AWARE that the Senate of Kenya as established in the Constitution plays a critical role in the linkage of the devolved governments and the national government by representing and serving the interests of the counties and their governments;

FURTHER AWARE that on 21st June 2018, the Senate resolved to hold plenary and Committee sittings in Uasin Gishu County from 24th to 28th September, 2018, and further resolved that similar sittings be held in all regions of the country during the term of the current Parliament;

NOTING that the Senate held its first plenary and Committee sittings away from Nairobi in Uasin Gishu county from 24th – 28th September, 2018 providing an opportunity for several sectors of society to directly engage with the legislative arm of government through public participation on various issues, as well as participate in oversight through inspection of various projects and programs of national and county governments;

COGNIZANT that holding the plenary and Committee sittings of the Senate away from the traditional premises at the Parliament Buildings in Nairobi has great potential to, among others –

- (i) enhance the interaction between the Senate and county governments;

...../Motion

- (ii) bring the Senate closer to the counties and the general public;
- (iii) provide an opportunity to members and staff of county assemblies to learn and borrow best practices from the Senate;
- (iv) promote the role and work of the Senate;
- (v) highlight existing opportunities for people to get involved in the work of the Senate;
- (vi) develop and strengthen capacity and partnerships at the county level; and
- (vii) enhance public awareness regarding the Business of the Senate.

NOW THEREFORE, pursuant to Article 126 (1) of the Constitution and Standing Order 31 (1) of the Senate, the Senate resolves that its plenary and committee sittings be held in Kitui County from 16th to 20th September, 2019.

9. **COMMITTEE OF THE WHOLE**

***THE TEA BILL (SENATE BILLS NO. 36 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

(Resumption of debate interrupted on Thursday, 6th June, 2019)

10. **COMMITTEE OF THE WHOLE**

******THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

(The Senate Majority Leader)

(Consideration of National Assembly Amendments)

11. **COMMITTEE OF THE WHOLE**

***THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**

(Sen. Ledama Olekina, MP)

12. **COMMITTEE OF THE WHOLE**

***THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO. 17 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

13. ***THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 32 OF 2018)**

(Sen. (Arch.) Sylvia Kasanga, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 4th June, 2019)

14. ***THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)**

(Sen. Mary Seneta, MP)

(Second Reading)

15. ******THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**

(The Senate Majority Leader)

(Second Reading)

...../Bill

16. ***THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2019)**

(Sen. Aaron Cheruiyot, MP and Sen. Isaac Mwaura, MP)
(*Second Reading*)

17. *****THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2019)**

(The Senate Majority Leader)
(*Second Reading*)

18. **MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**

(Sen. Charles Reubenson Kibiru, MP)

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President’s “Big Four” Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

NOTING THAT, whereas the National Government’s Budget is based on Vision 2030 and “Big Four” Agenda, the County Governments’ Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

...../Motion

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP’s) and Annual Development Plans (ADP’s) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

19. **MOTION - RENAMING OF MURANG’A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY.**
(Sen. Isaac Mwaura, MP)

THAT AWARE THAT, Murang’a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang’a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba’s contribution to our Nation, to rename Murang’a University of Technology to Kenneth Matiba University of Technology.

...../Motion

20. **MOTION - CREATION OF SUPPORT SERVICES FOR THE DISCIPLINED FORCES AND THEIR FAMILIES**

(Sen. George Khaniri, MP)

THAT APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

21. **MOTION - WAIVER OF INTEREST ON HELB LOANS FOR GRADUATES**

(Sen. (Dr.) Abdullahi Ali, MP)

THAT, AWARE THAT Higher Education Loans Board (HELB) has, for over the last two decades, become the leading financier of higher education in Kenya whose mandate is to source funds and lend them as affordable loans, bursaries and scholarship to students pursuing higher education in recognized institution;

COGNIZANT THAT, the Ministry of Education announced that the government has lost Kshs. 7.2b through people defaulting payment on loans issued by HELB translating to 74,692 graduates who have defaulted the loans payment;

NOTING THAT, measures were taken to enhance the HELB loan recovery process which included a six month waiver of accumulated interest and penalties, and working with law enforcement officers to make sure the defaulters who are employed payback the loans;

CONCERNED THAT, there are graduates from institutions of higher learning who have not been gainfully employed for many years after graduation, and are therefore burdened with loans that have accumulated interest and penalties that they have no means to repay;

...../Motion

FURTHER CONCERNED THAT, when beneficiaries fail to remit their monthly instalments for more than three months, HELB reports them to the Credit Reference Bureaus (CRB) preventing them from accessing loan facilities with any financial institution in Kenya, accessing employment opportunities in the government and major private and publicly listed companies and the loan guarantors are pursued and forced to service the HELB loan;

NOW THEREFORE, the Senate recommends that the Ministry of Education and HELB –

1. institutes a six (6) month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six (6) month period; and
2. embarks on a forty-five (45) day sensitization exercise preceding the waiver, no later than ninety (90) days after the passage of this motion.

NOTICE

The Senate resolved on 13th February, 2019 as follows:-

THAT, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

******** - Denotes a Majority /Minority Party Bill

******* - Denotes a National Assembly Bill

****** - Denotes a Committee Bill

***** - Denotes any other Bill

A. *THE TEA BILL (SENATE BILLS NO. 27 OF 2018)

(Sen. Aaron Cheruiyot, MP)

- (i) **NOTICE** is given that Sen. Njeru Ndwiga, Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries, intends to move the following amendments to the Tea Bill, Senate Bills No. 36 of 2018, at the Committee Stage—

PART II

THAT the Bill be amended by deleting the heading of Part II and substituting therefore the following new heading—

PART II – THE TEA BOARD OF KENYA

CLAUSE 3

THAT clause 3 of the Bill be deleted and substituted with the following new clause—

Establishment of Board.	3. (1) There is established a Board, to be known as the Tea Board of Kenya.
-------------------------	--

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

CLAUSE 4

THAT clause 4 of the Bill be deleted and substituted with the following new clause—

Headquarters.	4. (1) The headquarters of the Board shall be in Nairobi City County.
---------------	--

(2) The Board may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.

CLAUSE 5

THAT clause 5 of the Bill be deleted and substituted with the following new clause—

Powers
of the
Board

5. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to-

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board’s funds not immediately required for the purposes of this Act, as it may determine; and
- (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

(2) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associated with a body or corporation designed to assist or promote the tea industry.

CLAUSE 6

THAT clause 6 of the Bill be deleted and substituted with the following new clause—

Powers
of the
Board

- 6.** (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to-
- (a) enter into contracts;
 - (b) manage, control and administer the assets of the Board;
 - (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
 - (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
 - (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

(2) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associated with a body or corporation designed to assist or promote the tea industry.

CLAUSE 7

THAT Clause 7 of the Bill be deleted and substituted with the following new clause—

Membership
of Board.

- 7.** (1) The management of the Board shall vest in a Board Directors consisting of-
- (a) a chairperson appointed by the President by notice in the *Gazette*;
 - (b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;

- (c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;
- (d) two persons of either gender, nominated by the Council of County Governors;
- (e) four persons, two of the opposite gender, representing small-holder tea growers tea from the east and west of the tea growing areas;
- (f) one person representing plantation tea growers;
- (g) one person representing tea traders;
- (h) a chief executive officer appointed in accordance with section 13 who shall be an *ex-officio* member of the Board.

(2) The Cabinet Secretary shall appoint the members under subsection (1) (e), (f) and (g) by notice in the *Gazette*.

(3) A person shall not be appointed to be a chairperson of the Board of Directors unless that person holds at least a degree or its equivalent in any discipline from an institution recognized in Kenya and has relevant experience in the tea sector.

CLAUSE 8

THAT clause 8 of the Bill be deleted and substituted with the following new clause—

Term of appointment.	8. The persons appointed under section 7 (1) (a), (d), (e), (f), and (g) shall serve for a term of three years renewable for one further term.
----------------------	---

CLAUSE 9

THAT clause 9 of the Bill be deleted and substituted with the following new clause—

Vacation of office.	9. A person shall cease to be a member of the Board of Directors if such person- (a) is absent from three consecutive meetings of the Board without the permission of the chairperson;
---------------------	--

...../Amendments

- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing, addressed, in the case of the chairperson to the President and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (e) is declared bankrupt;
- (f) is unable to perform the functions of his office by reason of mental or physical infirmity; or
- (g) dies.

CLAUSE 10

THAT clause 10 of the Bill be deleted and substituted with the following new clause—

Functions of the Board.

10. (1) The Board shall –

- (a) regulate and promote the development of the tea industry;
- (b) co-ordinate the activities of individuals and organizations within the tea industry; and
- (c) facilitate equitable access to the resources, facilities and benefits of the tea industry by all interested parties.

(2) Without prejudice to the generality of subsection (1), the Board shall-

- (a) make recommendations to the Cabinet Secretary for the formulation of policies, plans and strategies for the regulation of the tea sector;
- (b) in consultation with the relevant county governments-
 - (i) register and regulate the operations of tea growers and processors;

- (ii) register commercial tea nurseries and green leaf transporters;
- (iii) license tea dealers and processors;
- (iv) license managing factories and their agents; and
- (v) license tea brokers.
- (c) provide advisory services on tea production and quality enhancement;
- (d) collect and analyze statistics related to, and maintain a database for the tea industry; and
- (e) co-ordinate the prioritization of-
 - (i) research; and
 - (ii) ensure the efficient utilization of available funds.

CLAUSE 11

THAT clause 11 of the of the Bill be deleted and substituted with the following new clause—

Committees
of the
Board.

11. (1) The Board of Directors may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

(2) The Board of Directors may co-opt to sit in the committees established under subsection (1), such other persons whose knowledge and skills are necessary for the performance of the functions of the Board.

CLAUSE 12

THAT clause 12 of the Bill be deleted and substituted with the following new clause—

Delegation
by the
Board.

12. The Board of Directors may, by resolution, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

CLAUSE 13

THAT clause 13 of the Bill be deleted and substituted with the following new clause—

Remuneration
of members of
the board.

13. The Board of Directors shall be paid such remuneration or allowance as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.

CLAUSE 14

THAT clause 14 of the Bill be deleted and substituted with the following new clause—

Chief
executive
officer.

14. (1) The chief executive officer shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine.

(2) The chief executive officer shall be responsible for the day to day management of the affairs of the Board.

(3) A person is not qualified for appointment under subsection (1) unless the person-

- (a) holds a relevant degree from a university recognized in Kenya; and
- (b) has at least five years experience in a position of management.

(4) The chief executive officer shall serve for a term of three years and is eligible for appointment for a further one term of three years upon satisfactory performance.

CLAUSE 15

THAT clause 15 of the Bill be deleted and substituted with the following new clause—

Vacancy

15. The chief executive officer shall cease to hold office if the person—

- (a) resigns in writing, addressed to the Board of Directors;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethics Act or any other relevant law;
- (d) is declared bankrupt;
- (e) is unable to perform the functions of his office by reason of mental or physical infirmity; or
- (f) dies.

CLAUSE 16

THAT clause 16 of the Bill be deleted and substituted with the following new clause—

Corporation
Secretary

16. (1) There shall be a Corporation Secretary who shall be competitively recruited and appointed by the Board of Directors.

(2) The terms and conditions of service of the corporation secretary shall be determined by the Board in the instrument of appointment upon the advice of the Salaries and Remuneration Commission.

(3) A person is qualified for appointment under subsection (1) if that person—

- (a) holds a degree from a recognised university;
- (b) is registered under the Certified Public Secretaries of Kenya Act;
- (c) is a member of good standing of the Institute of Certified Public Secretaries of Kenya;
- (d) has at least seven years' experience in a similar position; and
- (e) satisfies the requirements of chapter six of the Constitution.

...../Amendments

- (4) The Corporation Secretary shall be the secretary to the Board and shall —
- (a) provide guidance to the Board of Directors on their duties and responsibilities and on matters of governance;
 - (b) ensure timely preparation and circulation of Board and Committee papers and minutes;
 - (c) maintain and update the register of conflicts of interest;
 - (d) facilitate effective communication between the organisation and the shareholders; and
 - (e) ensure that the annual returns and any other statutory documents required to be filed are promptly filed with the relevant authorities.

NEW CLAUSES

The Bill is amended by inserting the following new clauses immediately after clause 16—

Staff of the Board.

16A. The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

Common seal of the Board.

16B. The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board.

Signing Authority.

16C. All letters and instruments written or made by or on behalf of the Board of Directors, other than those required by law to be under seal, and all decisions of the Board of Directors, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Board.

Conduct of business of the Board.

16D. The business and affairs of the Board of Directors shall be conducted in accordance with the Schedule.

...../Amendments

Role of national and county governments

16E. (1) Each county government shall implement the national government policies to the extent that the policies relate to the county and in particular shall be responsible for—

- (a) the development of tea grown within the county;
- (b) disease control;
- (c) markets;
- (d) cooperative societies within the county;
- (e) soil and water conservation.

(2) In order to achieve the objects and purposes of this Act, the national and county governments shall provide an enabling environment for the development of the tea sector.

CLAUSE 17

THAT clause 17 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (c) –

- (d) such other information as the Board may be prescribed.

CLAUSE 18

THAT clause 18 of the Bill be amended—

- (a) in subclause (1) by deleting the word “Authority” appearing at the end of the sub-clause and substituting therefor the word “Board”;
- (b) inserting the following new sub-clause immediately after sub-clause (1)-
 - (1A) Subsection (1) shall not apply to the export, import or marketing of any tea consisting of a sample or parcel not exceeding ten kilograms or tea processed for consumption on ships, aeroplanes or any other international carrier.
- (c) in subclause (3) by deleting the word “Authority” appearing immediately after the word “the” and substituting therefor the word “Board”.

CLAUSE 19

THAT the Bill be amended by deleting clause 19 and substituting therefor the following new clause—

Form of licence. **19.** A licence issued under this Act shall be in a form prescribed by the Board, and shall be renewable upon the expiry of three years.

CLAUSE 20

THAT the Bill be amended by deleting clause 20 and substituting therefor the following new clause—

Dissemination of market information. **20.** The Board shall carry out market research and analysis and disseminate information on its findings to all stakeholders.

CLAUSE 21

THAT the Bill be amended by deleting clause 21 and substituting therefor the following new clause—

Funds of the Board. **21.** The funds and assets of the Board shall consist of-

- (a) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
- (b) such monies as may be payable to the Board pursuant to this Act or any other written law;
- (c) such gifts as may be donated to the Board; and
- (d) monies from any other source granted, donated or lent to the Board

CLAUSE 22

THAT clause 22 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “expenditure of the” and substituting therefor the word “Board”; and
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “expenditure of the” and substituting therefor the word “Board”;

CLAUSE 23

THAT clause 23 of the Bill be amended –

- (a) in sub-clause (1) by-
 - (i) deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Board”;
 - (ii) deleting the word “Authority” appearing immediately after the words “liabilities of the” in paragraph (a) and substituting therefor the word “Board”;

- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “accounts of the” and substituting therefor the word “Board”;
- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause-
 - (3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.
- (d) by deleting sub-clause (4)

CLAUSE 24

THAT the Bill be amended by deleting clause 24 and substituting therefor the following new clause—

Annual Report and publication.

24. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General’s report .

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to Parliament the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if Parliament is not sitting, within fourteen days of the commencement of its next sitting.

CLAUSE 25

THAT clause 25 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “year of the” and substituting therefor the word “Board”.

CLAUSE 26

THAT clause 26 of the Bill be amended-

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Board”; and
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “decision of the” and substituting therefor the word “Board”.

CLAUSE 27

THAT clause 27 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “attach to the” and substituting therefor the word “Board”.

CLAUSE 29

THAT clause 29 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “consultation with the” in the introductory clause and substituting therefor the word “Board”.

CLAUSE 31

THAT clause 31 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “contracts of the” and substituting therefor the word “Board”.

CLAUSE 32

THAT clause 32 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “or against the” and substituting therefor the word “Board”.

CLAUSE 33

THAT clause 33 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “reference to the” and substituting therefor the word “Board”.

NEW CLAUSE 34A

THAT the Bill be amended by inserting the following new clause immediately after clause 34-

Staff.

34A. Any person who, at the commencement of this Act, is a member of staff of the Agriculture and Food Authority dealing with the tea sector shall, on the appointed day, become a member of staff of the Board on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

SCHEDULE

THAT the Bill be amended by deleting the Schedule and substituting therefor the following new Schedule-

SCHEDULE

s.16D

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Meetings of the Board.

1. (1) The Board of Directors shall meet at least once in every three months to conduct the business of the Board

(2). The Chairperson shall convene the ordinary meetings of the Board of Directors at the premises of the Board.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board of Directors at any time where he considers it expedient for the transaction of the business of the Board.

(4) Unless three quarters of the total number of the members of the Board otherwise agree, at least fourteen days written notice of every meeting of the Board of Directors shall be given to every member of the Board by the Secretary.

(5) The quorum for the conduct of the business of the Board shall be five members.

(6) The Chairperson shall preside at every meeting of the Board at which he is present and in his absence, the members of the Board present shall elect one person from their number to preside over the meeting of the Board of Directors and he shall have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Board of Directors shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the Board of Directors shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, the Board of Directors may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings thereof.

...../Amendments

Disclosure of interest.

2. (1) If a member of the Board of Directors is directly or indirectly interested in any contract, proposed contract or other matter before the Board of Directors and is present at a meeting of the Board of Directors at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of Board of Directors by any person generally or specially authorized by the Board of Directors for that purpose.

CLAUSE 2

THAT clause 2 of the Bill be amended by –

- (a) deleting the definition of the word “Authority”;
- (b) deleting the definition of the word “Board” and substituting therefore the following new definition-

“Board” means the Tea Board of Kenya established by section 3;

- (c) inserting the definitions of the following words in their proper alphabetical order-

“broker” means a person who negotiates the purchase or sale of tea between tea growers and buyers;

“managing factory” means a factory appointed to process green leaf into made tea;

- (ii) **NOTICE** is given that Sen. Irungu Kang’ata intends to move the following amendment to the Tea Bill, Senate Bills No. 36 of 2018, at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended in subclause (1) by deleting the word “Kericho” appearing immediately after the words “shall be in” and substituting therefor the words “Nairobi City”.

B. **THE COUNTY GOVERNMENT (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

(The Senate Majority Leader)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Wednesday, 6th March, 2019

CLAUSE 8 -

THAT, Clause 8 of the Bill be amended in the proposed amendment to section 25 in the new subsection (2) by deleting the words “and the county Gazette” appearing immediately after the words Kenya Gazette.

CLAUSE 11 -

THAT, Clause 11 of the Bill be amended in the proposed amendments to section 31 by deleting the proposed new paragraph (a) and substituting therefor—“(a) may dismiss a county executive member, if the governor considers appropriate and shall give reasons for dismissal”

CLAUSE 15 -

THAT, the Bill be amended by deleting clause 15 and substituting therefor—

Amendment to section 44 of No. 17 of 2012.

15. Section 44 the principal Act is amended by-
A. deleting subsection (2) and substituting therefor—

“(2) A person shall be qualified for appointment as a county secretary under subsection (1), if that person —

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years relevant professional experience;
- (d) has at least five years’ experience in a leadership position at senior management level in a public service or private sector organization; and
- (e) meets the requirements of leadership and integrity as prescribed in Chapter Six of the Constitution.

B. inserting the following new subsections immediately after subsection (2)–

(2A) The Governor shall, for the purpose of competitive recruitment of a county secretary under subsection (2), constitute a selection panel.

(2B) The selection panel shall consist of the following persons–

- (a) a chairperson, not being a public officer;
- (b) one person from the private sector;
- (c) an Advocate of the High Court of Kenya, who is a member of the Law Society of Kenya;
- (d) an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and
- (e) one person from an association representing workers.

(2C) The provisions of section 58A shall, with such modification as shall be necessary apply to the recruitment of a county secretary.

(2D) Upon interviewing the applicants for the position of county secretary–

- (i) the selection panel shall submit to the governor the names of two applicants who qualify for appointment as county secretary; and

...../Amendments

(ii) the governor shall submit the name of one applicant to the county assembly for approval for appointment as county secretary by the governor.

(2E) The county secretary shall hold office for a term of five years and shall be eligible for re-appointment once.

(2F) The county secretary shall be an *ex officio* member of the County Executive Committee with no voting rights.

C. inserting the following new subsection immediately after subsection (3) –

(3A) The county secretary may be removed from office on the following grounds—

- (a) inability to perform functions of the office arising out of physical or mental infirmity;
- (b) incompetence;
- (c) gross misconduct;
- (d) bankruptcy; or
- (e) violation of the Constitution.

(3B) Before removal under subsection (3A), the county secretary shall be informed, in writing, of the reasons for the intended removal, and shall be given an opportunity to put a defence against any such allegations, either in person or through a representative.

(3C) Subject to subsection (3A), (3B) and conditions of appointment, a county secretary may be dismissed by the governor.

C. *THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)
(Sen. Ledama Olekina, MP)

- (i) **NOTICE** is given that Sen. Johnson Sakaja, the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2018, at the Committee Stage—

CLAUSE 2

Amend **THAT** the Bill be amended by deleting clause 2 and substituting
ment of the following new clause—

section Section 2 of the Retirement Benefits (Deputy President and
2 of Act Designated State Officers) Act, 2015, hereinafter referred to as the
No. 8 of “principal Act”, is amended by—
2015

- (a) inserting the following new definition immediately after the definition of the term “entitled person”—

“pensionable emoluments” means basic salary excluding housing, transport and any other allowances or fluctuating emoluments;

- (b) deleting the definition of the term “retired vice president” and substituting therefor the following new definition—

“retired Vice-President” means a person who, having held the office of the Vice President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

CLAUSE 7

THAT clause 7 of the Bill be amended by—

- (a) renumbering the proposed new section 10 as subsection (1); and
- (b) inserting the following new subsection immediately after subsection (1)—

(2) Where an entitled person has no surviving spouse or an eligible child the benefits payable shall form part of the estate of the deceased for administration.

CLAUSE 8

THAT the Bill be amended by deleting clause 8.

CLAUSE 9

THAT the Bill be amended by deleting clause 9.

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 7—

Amendment **7A.** The First Schedule of the principal Act is amended in of First paragraph (h) by deleting the word “two” appearing at the Schedule of beginning of the paragraph.
Act No. 8 of
2015

- (ii) **NOTICE** is given that Sen. Farhiya Ali Haji, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Act, Senate Bills No. 2 of 2018, at the Committee Stage—

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the following new paragraphs after paragraph (a)-

(aa) in subsection (1) by deleting the word“four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(ab) in subsection (1) by deleting the word“four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

THAT the Bill be amended by introducing the following new clauses after clause 5

CLAUSE 5A

THAT section 5A of the Act be amended by-

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5B

THAT section 5B of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5C

THAT section 6 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5D

THAT section 7 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

D. *THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL
(SENATE BILLS NO. 17 OF 2018)

(Sen. Aaron Cheruiyot, MP)

NOTICE is given that Sen. Johnson Sakaja, the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Care and Protection of Older Members of Society Bill, 2018, at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended in paragraph (b) by inserting the word “dignity” immediately after the words “protect the status”.

CLAUSE 4

THAT clause 4 of the Bill be amended in paragraph (b) by deleting the words “human being” appearing immediately after the words “of every” and substituting therefor the words “older member of society”.

PART II

THAT the Bill be amended by deleting the heading to Part II and substituting the following new title—

“RIGHTS AND ENTITLEMENTS OF OLDER MEMBERS OF SOCIETY”

CLAUSE 5

THAT the Bill be amended by deleting clause 5 and substituting therefor the following clause—

Rights of
Older
Members
of Society.

5. An older member of society has the right to enjoy the rights conferred under the Constitution and in particular shall not be unfairly denied the right to—

- (a) participate in community life in a position appropriate to their interests and capabilities;
- (b) participate in intergenerational programmes;
- (c) establish and participate in associations of older members of society;
- (d) participate in activities that enhance their income generating capacity;
- (e) access opportunities that promote their optimal level of social, physical, mental and emotional wellbeing;
- (f) fully participate in the affairs of the society;
- (g) pursue their personal development;
- (h) manage their own property;

...../Amendments

- (i) live in dignity and respect and be free from abuse; and
- (j) receive reasonable care and assistance from their family and the State.

NEW CLAUSES

THAT the Bill be amended by inserting the following New Clauses immediately after Clause 5-

Right to
Legal
Capacity.

5A. (1) An older member of society has a right to legal capacity and the right to access support necessary to exercise that legal capacity.

(2) An express or implied disqualification on the grounds of age prescribed in a law, custom or practice shall not deprive an older member of society the right to legal capacity.

Right to
Equality
and Non-
Discrimin-
ation.

5B. (1) An older member of society shall be entitled to equal protection and equal benefit of the law.

(2) An affirmative action measure aimed to achieve equality of older members of society shall not constitute discrimination.

(3) An older member of society shall live in dignity and security, free from exploitation and physical or mental abuse and be treated fairly.

Right to
Document
s of
Registrati-
on.

5C. (1) An older member of society has a right to be issued with a passport, national identity card, certificate of birth and any other document of registration or identification irrespective of their age.

(2) Where a birth certificate is not issued, the older member of society shall use alternative document including a national identity card to serve the purpose.

Right to
Protection
and Safety
in
Situations
of Risk
and
Humanita-
rian
Emergenc-
ies.

5D. (1) An older member of society has a right to suitable and specialised protection and safety in a situation of risk, including a situation of armed conflict, humanitarian emergency and the occurrence of a natural disaster.

(2) An institution whether public or private shall maintain an inventory of all older members of society and shall submit the inventory quarterly to the national government, county government and other agencies responsible for disaster management.

(3) The national government and each county government shall be responsible for emergency management and shall take appropriate measures to ensure the inclusion of older members of society in every scheme, program, mission as well as its disaster management system during the occurrence of any disaster emergency, for the safety and protection of such persons.

Right to Education . **5E.** (1) The national government and each county government shall ensure that older members of society have access to educational, cultural, spiritual and recreational resources.

(2) The Ministry responsible for education shall develop programmes and structures for the education and training of older members of society.

Right to Health **5F.** (1) The national government and each county government shall take appropriate measures to ensure that an older member of society who is not covered in an existing medical scheme gets affordable, accessible, adequate and quality free medical care.

(2) Medical assessment reports for older members of society shall be free of charge in public health institutions.

(3) An older member of society shall not be compelled to undergo any test as a precondition to or for continued enjoyment of provision of health cover.

Right to Admission into Public and Private Premises, and Public Transport **5G.** (1)A person shall not, on the ground of old age be denied-
(a) admission into a premise to which members of the public are ordinarily admitted; or
(b) the provision of a service or amenity to which members of the public are entitled.
(2) The proprietor of a premise referred to in subsection (1) (a) shall not have the right, on the ground of a person's age, to reserve the right of admission to the premises against an older member of society.

Right to Sports, Recreation, Leisure and Culture. **5H.** (1) An older member of society has a right to participate in sports, recreation, leisure and cultural activities including national and international sports events.

(2) Public and private institution with sporting, recreation, leisure and cultural activities shall ensure that the activities are sensitive to the needs of older members of society.

(3) An older member of society shall be entitled to the use, free of charge, of recreational or sports facilities owned or operated by the government during social, sporting or recreational activities.

(4) The national and county governments shall provide older members of society with a suitable environment for sports, recreation and leisure, including training support and medical personnel.

(5) Section (4) shall not apply in cases where there is exclusive private hire of such facilities.

Right of Access to Justice **5I.** (1) Law enforcement agencies shall take into consideration the age of an older member of society on arrest, detention, trial or confinement.

(2) A suit involving an older member of society shall be disposed off expeditiously having due regard to their age and suffering.

CLAUSE 6

THAT clause 6 of the Bill be amended in subclause (2) by inserting the word “periodic” immediately after the word “promote” appearing at the beginning of paragraph (c).

CLAUSE 26

THAT clause 26 of the Bill be amended in subclause (1) by inserting the following new paragraphs immediately after paragraph (e) —

(f) the number of older members of society who have died in the home within the year and the cause of death; and

(g) the number of accidents in the home and complaints reported in relation to older members of society.

CLAUSE 27

THAT clause 27 of the Bill be amended-

(a) in paragraph (d) by inserting the words “county executive committee member and” immediately after the words “reports to the”;

(b) by inserting the following new paragraph immediately after paragraph (e)—

(f) facilitate the enjoyment of all the rights of older members of society as conferred under the Constitution.

CLAUSE 30

THAT clause 30 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)—

(f) the right of expression on matters regarding their welfare.
