



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – THIRD SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, SEPTEMBER 10, 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 issued the following Communication:-

**COMMUNICATION ON REGISTRATION OF MEMBERS IN THE BIOMETRIC SYSTEM**

**“Honourable Members**, I wish to welcome you back from the long recess and hope you are refreshed and rejuvenated for the third part of this Third Session. As we resume this part of the Session, may I remind Members about my Communication made on Tuesday, June 5, 2018 in which I asked all Members to register in the Chamber Biometric System. The registration is for purposes of recording Chamber attendance in the House.

Honourable Members, in addition to the record of attendance developed through the Biometric System, I am glad to convey that, **since July 24<sup>th</sup> 2019, the Members-Log-in Panel has been configured to record any entry made by a Member upon logging in.** This is the second layer of confirming attendance, should the Biometric System fail to capture attendance of a particular Member. In this regard, I urge all Members to register with both the Biometric System as well as ensure they use their cards to log in, even if a Member is not wishing to speak to any matter in the House.

May I however caution that this new addition is not an alternative to registration of Chamber attendance through the Biometric System, but serves to complement the System.

Honourable Members, I therefore urge all of you who are yet to register in the Biometric System or those who have misplaced their log-in cards to urgently make necessary arrangements with the Chief Serjeant-at-Arms. This may be done at the entrance of the Chamber during working hours when the House is not sitting.

I thank you.”

5. **MESSAGES**

The Speaker conveyed the following Messages from H.E. the President:-

i) **REFERRAL BY H.E. THE PRESIDENT OF THE PARLIAMENTARY SERVICE BILL, 2018**

**Honourable Members,** You may recall that on 4<sup>th</sup> July 2019, the National Assembly passed the Parliamentary Service Bill (National Assembly Bill No. 06 of 2018). The Bill sought to make further provisions as regards the Parliamentary Service Commission and the Parliamentary Service as re-established under the Constitution of Kenya 2010 and to repeal the Parliamentary Service Act, 2000.

Thereafter, the Bill was presented for Assent to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders. However, in exercise of the powers under Article 115(1)(b) of the Constitution, H.E. the President, by way of a Memorandum dated 16<sup>th</sup> August, 2019 has since referred the Bill back to the National Assembly for reconsideration.

In his Memorandum, H.E. the President has expressed reservations on—

- a) Clause 20 of the Bill regarding the facilitation of activities held outside the precincts of Parliament by members and staff of Parliament; and
- b) Clause 43 of the Bill on the remuneration of employees of the Commission.

Consequently, the President recommends amendments to the said Clauses and the Bill.

**Honourable Members,** Standing Order 154(2) requires the House to consider the President's Reservations within twenty one (21) days upon receipt of the Memorandum. In this regard, the Reservations of the President, as contained in his Memorandum, now stand committed to the Departmental Committee on Justice and Legal Affairs for consideration, which should table its report soonest to allow the House to consider the President's Reservations within the said timeline.

**Honourable Members,** May I, at this point, remind the House of the *Speaker's Communication* delivered on 28<sup>th</sup> July, 2015 concerning the consideration of President's reservations to a Bill and amendments thereto. I particularly draw your attention to my guidance, that the voting threshold for the passage of amendments proposed by a Committee or an individual Member that have the effect of **fully accommodating** the President's reservations is a simple majority as contemplated under Article 122(1), as read together with Article 115(2)(a) of the Constitution.

On the other hand, an amendment that **does not fully accommodate** the President's reservations, or indeed one that has the effect of total override of the President's reservations, including negating his proposed text would require a **two-thirds voting** threshold to be passed in keeping with the provisions of Article 115(4) of the Constitution.

I wish to further reiterate that only the specific section of the Bill that have reservations ought to be considered.

I direct the Clerk to now circulate the Memorandum from H.E. the President to all Members so that you familiarize yourselves with its contents.

I Thank you!"

ii) **NOMINATION OF CHAIRPERSON AND MEMBERS OF THE NATIONAL LAND COMMISSION (NLC)**

"Honourable Members, pursuant to the provisions of Standing Order No. 42, I wish to convey a Message from His Excellency the President relating to nomination of persons for appointment to the Offices of the Chairperson and Members of the National Land Commission.

Honourable Members, the Message which was received in my office on 16<sup>th</sup> August, 2019, conveys that, in exercise of powers conferred by Article 250(2) of the Constitution as read together with Section 12 of the National Land Commission Act, 2012 and Section 5 of the Public Appointments (Parliamentary Approval) Act, 2011, H.E. the President nominated, and now seeks the approval of this House on the following persons for appointment to the respective offices of the National Land Commission:-

1. Mr. Gershom Otachi Bw'Omanwa -Chairperson
2. Hon. Esther Murugi Mathenge -Member
3. Prof. James K. Tuitoek, Ph.D -Member
4. Ms. Getrude Nduku Nguku -Member
5. Mr. Reginald Okumu -Member
6. Hon. Samuel Kazungu Kambi -Member
7. Mr. Alister Murimi Mutugi -Member
8. Hon. Tiya Galgalo -Member

Honourable Members, Standing Order 43(2) provides that and I quote:

*"(2) If a message is received from the President, at a time when the House is not in session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the message to the House on the day the House next sits."*

Accordingly, in accordance with the said Standing Order, I notified all the Members of the nominations on 18<sup>th</sup> August, 2019. Now therefore, pursuant to the provisions of Standing Order 45, I refer the Message together with the *Curriculum Vitae* of the nominees to the Departmental Committee on Lands for consideration.

Honourable Members, paragraph 6 of the National Land Commission Act requires the National Assembly to either approve or reject any or all of the nominees to the respective positions within twenty-one days of the day, it next sits.

In this regard, the Committee should expeditiously notify the nominees and the general public of the time and place for holding the approval hearings, commence the necessary hearings and submit its Report to the House on or before 30<sup>th</sup> September, 2019 to enable the House to consider the nominees within the statutory timelines.

I thank you!"

6. **PAPERS LAID**

The following Papers were laid on the Table of the House:-

- 1) Legal Notice No. 89 of 2019 on the Civil Aviation (Aircraft Accident and Incident Investigations) Regulations, 2018 and the Explanatory Memorandum;
- 2) Legal Notice No. 90 of 2019 on the Civil Aviation (Air Worthiness) Regulations, 2018 and the Explanatory Memorandum;
- 3) Legal Notice No. 91 of 2019 on the Civil Aviation (Safety Management) Regulations, 2018 and the Explanatory Memorandum;
- 4) Legal Notice No. 92 of 2019 on the Civil Aviation (Air Operator Certification and Administration) Regulations, 2018 and the Explanatory Memorandum;
- 5) Legal Notice No. 93 of 2019 on the Civil Aviation (Approved Training Organizations) Regulations, 2018 and the Explanatory Memorandum;
- 6) Legal Notice No. 94 of 2019 on the Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018 and the Explanatory Memorandum;
- 7) Legal Notice No. 95 of 2019 on the Civil Aviation (Personnel Licensing) Regulations, 2018 and the Explanatory Memorandum;
- 8) Legal Notice No. 96 of 2019 on the Civil Aviation (Approved Maintenance Organizations) Regulations, 2018 and the Explanatory Memorandum;
- 9) Legal Notice No. 97 of 2019 on the Civil Aviation (Operation of Aircraft- Helicopter) Regulations, 2018 and the Explanatory Memorandum;
- 10) Legal Notice No. 119 of 2019 on the Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018 and the Explanatory Memorandum;
- 11) Legal Notice No. 120 of 2019 on the Civil Aviation (Units of Measurement to be used in Air and Ground Operations) Regulations, 2018 and the Explanatory Memorandum;
- 12) Legal Notice No. 124 of 2019 on the Civil Aviation (Rules of the Air) Regulations, 2018 and the Explanatory Memorandum;
- 13) Legal Notice No. 125 of 2019 on the Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018 and the Explanatory Memorandum;
- 14) Legal Notice No. 126 of 2019 on the Civil Aviation (Operation of Aircraft for Commercial Air Transport) Regulations, 2018 and the Explanatory Memorandum;
- 15) Legal Notice No. 129 of 2019 on the Civil Aviation (Certification, Licensing and Registration of Aerodromes) Regulations, 2018 and the Explanatory Memorandum;
- 16) Legal Notice No. 131 of 2019 on the Civil Aviation (Instruments and Equipments) Regulations, 2018 and the Explanatory Memorandum;
- 17) Legal Notice No. 132 of 2019 on the Civil Aviation (Aeronautical Information Services) Regulations, 2018 and the Explanatory Memorandum;
- 18) Legal Notice No. 133 of 2019 on the Civil Aviation (Surveillance and Collision Avoidance Systems) Regulations, 2018 and the Explanatory Memorandum;
- 19) Legal Notice No. 134 of 2019 on the Civil Aviation (Aeronautical Charts) Regulations, 2018 and the Explanatory Memorandum;
- 20) Legal Notice No. 135 of 2019 on the Civil Aviation (Communication Procedures) Regulations, 2018 and the Explanatory Memorandum;
- 21) Legal Notice No. 136 of 2019 on the Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization) Regulations, 2018 and the Explanatory Memorandum;

- 22) Legal Notice No. 137 of 2019 on the Civil Aviation (Air Traffic Services) Regulations, 2018 and the Explanatory Memorandum;
- 23) Legal Notice No. 145 of 2019 on the Civil Aviation (Radio Navigation Aids) Regulations, 2018 and the Explanatory Memorandum;
- 24) Legal Notice No. 146 of 2019 on the Civil Aviation (Communications Systems) Regulations, 2018 and the Explanatory Memorandum;
- 25) Legal Notice No. 165 of 2019 on the Civil Aviation (Operation of Aircraft-General Aviation-Aeroplanes) Regulations, 2018 and the Explanatory Memorandum;
- 26) Legal Notice No. 166 of 2019 on the Civil Aviation (Meteorology Services for Air Navigation) Regulations, 2018 and the Explanatory Memorandum;
- 27) Legal Notice No. 167 of 2019 on the Civil Aviation (Licensing of Air Services) Regulations, 2018 and the Explanatory Memorandum;
- 28) Legal Notice No. 99 of 2019 on the Energy (Licensing of Petroleum Road Transportation Business) (Amendment) Regulations, 2019 and the Regulatory Impact Statement;
- 29) Legal Notice No. 100 of 2019 on the Petroleum (Liquefied Petroleum Gas) Regulations, 2019 and the Explanatory Memorandum; and
- 30) Legal Notice No. 132 of 2019 on the Criteria for the Determination of the Electricity Rebate 2019 and the Explanatory Memorandum.

*(Majority Leader)*

- 31) Report of the First Ordinary Session of the Fifth Parliament of the Pan-African Parliament held in Kigali, Rwanda from 18<sup>th</sup> October to 2<sup>nd</sup> November 2018.
- 32) Report of the Second Ordinary Session of the Fifth Parliament of the Pan-African Parliament held in Midrand, South Africa from 6<sup>th</sup> to 18<sup>th</sup> May 2019.

*(Hon. Jude Njomo, Member of the Kenya Delegation to the Pan-African Parliament)*

- 33) Report of the Departmental Committee on Finance and National Planning on its Consideration of the Public Finance Management (Amendment) Bill (National Assembly Bill No. 63 of 2019)
- 34) Report of the Departmental Committee on Finance and National Planning on its Consideration of Senate amendments to the County Governments Retirement Scheme Bill (National Assembly Bill No. 10 of 2018).

*(Chairperson, Departmental Committee on Finance and National Planning)*

7. **NOTICE OF MOTION**

The following Notice of Motion was given:-

**Notice of Motion -Report on the East African Community Customs Management (Amendment)(No.2) Bill, 2018 & the Administration of the East African Legislative Assembly (Amendment) Bill, 2018**

THAT, this House notes the Report of the Kenyan Delegation to the First Ordinary Session of the Fifth Parliament of the Pan-African Parliament held in Kigali, Rwanda from

18<sup>th</sup> October to 2<sup>nd</sup> November 2018 and the Report of the Kenyan Delegation to the Second Ordinary Session of the Fifth Parliament of the Pan-African Parliament held in Midrand, South Africa from 6<sup>th</sup> to 18<sup>th</sup> May 2019, laid on the Table of the House on Tuesday, September 10, 2019.

*(Hon. Jude Njomo, Member of the Kenya Delegation to the Pan-African Parliament)*

## 8. **QUESTIONS**

The following Questions were asked –

- (i) Question No.355/2019 by the Member for Matayos (Hon. Geoffrey Odanga) regarding implementation of the adult education programme in the country.

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

- (ii) Question No.371/2019 by the Member for Murang'a County (Hon. Sabina Chege) regarding construction of the Kangema-Kanyenyaini-Kiriri-Karurumo Road.

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

- (iii) Question No.373/2019 by the Member for Lamu East (Hon. Sharif Athman Ali) regarding compensation of persons affected by development of the Lamu Port – South Sudan –Ethiopia Transport Corridor (LAPSSET).

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

- (iv) Question No.380/2019 by the Member for Bonchari (Hon. John Oroo Oyioka) regarding National Hospital Insurance Fund premiums.

*(To be replied by the Cabinet Secretary for Health before the Departmental Committee on Health)*

- (v) Question No.381/2019 by the Member for Bomet County (Hon. Joyce Korir) regarding the Fuliza Service offered by Safaricom Limited.

*(To be replied by the Cabinet Secretary for Information, Communication and Technology before the Departmental Committee on Information, Communication and Innovation)*

- (vi) Question No.382/2019 by the Member for Baringo Central (Hon. Joshua Kandie) regarding outstanding fees arrears for students in Baringo Central Constituency.

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

## 9. **STATEMENTS**

The Member for Endebess (Hon. (Dr.) Robert Pukose) sought guidance from the Chair with regard to concerns that Ms. Mwendu Mwinzi may have taken up her new role as Kenyan's

Ambassador to South Korea without having renounced her American citizenship as had been contemplated and stipulated by the Departmental Committee on Defence and Foreign Affairs. The Honourable Speaker directed the Committee on Implementation to investigate the matter, obtain submissions from the Ethics and Anti-Corruption Commission, and report back to the House as soonest as practicable.

10. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE NATIONAL DROUGHT MANAGEMENT AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2019)**

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 National Drought Management Authority (Amendment) Bill (National Assembly Bill No. 26 of 2019).

*(The Leader of the Majority Party –06.08.2019)*

Debate on the Motion having been concluded on 08.08.2019;

Question put and agreed to.

Motion made and Question proposed:

**THAT**, the National Drought Management Authority (Amendment) Bill (National Assembly Bill No. 26 of 2019), be now read a Third Time.

*(The Leader of the Majority Party)*

No debate arising;

Question put and agreed to.

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

11. **THE SECTIONAL PROPERTIES BILL (NATIONAL ASSEMBLY BILL NO. 23 OF 2019)**

Motion made and Question proposed:

**THAT**, the Sectional Properties Bill (National Assembly Bill No. 23 of 2019) be now read a Second Time.

*(The Leader of the Majority Party –08.08.2019)*

Debate on the Motion having been concluded on 08.08.2019;

Question put and agreed to.

Bill read a Second Time and committed to the Committee of the Whole House tomorrow.

12. **THE REFUGEES BILL (NATIONAL ASSEMBLY BILL NO. 62 OF 2019)**

*(The Leader of the Majority Party)*

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

13. **MOTION – APPROVAL OF RATIFICATION OF PROTOCOL TO AMEND THE CONVENTION OF OFFENCES AND CERTAIN ACTS COMMITTED ON BOARD AIRCRAFT (MONTREAL PROTOCOL, 2014)**

Motion made and Question proposed:-

**THAT**, this House **adopts** the Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Protocol to amend the Convention of Offences and Certain Acts Committed on Board Aircraft (Montreal Protocol, 2014) for Ratification, *laid on the Table of the House on Thursday, June 6, 2019*, and pursuant to section 8 of the Treaty Making and Ratification Act, 2012 **approves** the Ratification of the Protocol to amend the Convention on Offences and Certain Acts Committed on Board Aircraft (Montreal Protocol, 2014).

*(Chairperson, Departmental Committee on Transport, Public Works and Housing)*

Debate arising;

Change of Chair from the Honourable Speaker to the Fourth Chairperson (Hon. Christopher Omulele);

Debate concluded;

Mover replied;

Question deferred.

14. **MOTION – APPROVAL OF RATIFICATION OF BILATERAL AIR SERVICES AGREEMENTS BETWEEN KENYA & THE HELLENIC REPUBLIC; BURKINA FASO; CAMBODIA; SEYCHELLES; AND FINLAND**

Motion made and Question proposed:-

**THAT**, this House **adopts** the Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Bilateral Air Services Agreements between Kenya & the Hellenic Republic; Kenya & Burkina Faso; Kenya & Cambodia; Kenya & Seychelles; and Kenya & Finland, *laid on the Table of the House on Thursday, June 6, 2019*, and pursuant to section 8 of the Treaty Making and Ratification Act, 2012 **approves** the Ratification of the Bilateral Air Services Agreements between Kenya & the Hellenic Republic; Kenya & Burkina Faso; Kenya & Cambodia; Kenya & Seychelles; and Kenya & Finland.



*(Chairperson, Departmental Committee on Transport, Public Works and Housing)*

Debate arising;

Debate concluded;

Mover replied;

Question deferred.

15. **MOTION** - **REPORT ON THE PUBLIC FINANCE MANAGEMENT (BIASHARA KENYA FUND) REGULATIONS, 2019 AND THREE OTHER RELATED SETS OF REGULATIONS**  
(The Chairperson, Committee on Delegated Legislation)

Order deferred.

And the time being twenty Minutes past Six O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

16. **HOUSE ROSE** - at twenty Minutes past Six O'clock

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**M E M O R A N D U M**

The Speaker will take the Chair on  
Wednesday, September 11, 2019 at 9.30 a.m.

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