



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FOURTH SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**THURSDAY, FEBRUARY 13, 2020**

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 Communication –

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**ON BUSINESS THAT LAPSED AT THE END OF THE THIRD SESSION**

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**Honourable Members,** I wish to welcome you to this first sitting that marks the formal commencement of the Fourth Session. May I also, once again, sincerely thank all Members for the role you played as a House in according a befitting parliamentary send-off for the late retired Second President of the Republic, H.E. Daniel Toroitich arap Moi, CGH, who served for an interrupted period of 47 years in this House.

**Honourable Members,** Today marks the beginning of one of the busiest parts of the Session, with the start of the Budget Cycle in the parliamentary Calendar, among other upcoming crucial business. As you may recall, on Thursday, December 5, 2019, I did indicate to the House that all Questions, Statements and Motions, including those relating to Committee reports, would lapse by the end of the Third Session. Therefore, Members wishing to continue with any such lapsed business are advised to submit afresh through the Table Office for processing and consideration in this Session.

**Honourable Members,** in line with the same Communication where I did suspend the counting of days for all **pending Petitions**, the House is reminded that, the counting of the sixty-day period prescribed under Standing Order 227 (2) now resumes today, being the first day of the Fourth Session.

**Honourable Members,** with regard to Questions, I wish to direct all Chairpersons of Departmental Committees to provide progress reports to the House pursuant to the requirements of Standing Order 42F. The respective reports should indicate the list of questions referred to their Committees, those replied to, those awaiting further information or reply, and those still pending. The Chairpersons will be expected to avail this information in form of a brief Statement to be made in the House and tabled on

**Wednesday, February 19, 2020 (afternoon)** and on **Thursday, February 20, 2020**. These reports, which will be made in the order in which the respective Committees appear in the Second Schedule to the Standing Orders, will enable Members to know the fate of their Questions which were still pending in Committees as at the end of the Third Session. For Questions for written reply whose responses have been received, the Clerk is instructed to avail the responses to the concerned Members. Regarding Questions for written reply whose responses have not been received, the Members concerned are at liberty file to the particular Questions again.

**Honourable Members,** May I also take this opportunity to inform the House that, during the Third Session of the Twelfth Parliament, His Excellency the President *assented* to a total of twenty six (26) Bills, which were passed at different times within the Session. These are –

**A. Bills originating in the National Assembly**

1. the Irrigation Act, 2019
2. the County Governments Retirement Scheme Act, 2019
3. the Statute Law (Miscellaneous Amendments) Act, 2019
4. the Supplementary Appropriation Act, 2019
5. the Appropriation Act, 2019
6. the Energy Act, 2019;
7. the Petroleum Act, 2019;
8. the Physical and Land Use Planning Act, 2019;
9. the Data Protection Act, 2019;
10. the Finance Act, 2019;
11. the Parliamentary Service Act, 2019;
12. the Copyright (Amendment) Act, 2019;
13. the Kenya Accreditation Service Act, 2019;
14. the Statistics (Amendment) Act, 2019;
15. the Health (Amendment) Laws Act, 2019;
16. the Division of Revenue Act, 2019;
17. the Land Value (Amendment) Act, 2019;
18. the National Cohesion and Integration Act, 2019;
19. the Sports (Amendment) Act, 2019;
20. the Insurance (Amendment) Act, 2019;
21. the Supplementary Appropriation (No.2) Act, 2019; and
22. the Kenya Roads Board (Amendment) Act 2019.

**B. Bills originating in the Senate**

23. the Warehouse Receipt System Act, 2019;
24. the Urban Areas and Cities (Amendment) Act, 2019;
25. the County Allocation of Revenue Act, 2019; and,
26. the Assumption of the Office of the Governor Act, 2019.

I therefore take this opportunity to commend all Members for this great performance with regard to passing of all these pieces of legislation among other business transacted in the Third Session.

**Hon. Members,** let me now turn to lapsed Bills and Committees whose term have come to an end. Pursuant to the provisions of Standing Order 141(2)(b), for the information of the House, the following two Bills lapsed at the end of the Third Session-

1. The Warehouse Receipt System Bill (National Assembly Bill No. 2 of 2018); and,
2. The County Governments (Revenue Raising Process) Bill (National Assembly Bill No. 24 of 2018).

**Further Honourable Members,** the term of the Committee on Members' Services & Facilities and the Parliamentary Committee on Powers & Privileges have lapsed. The two Committees have sessional terms and I therefore direct that the Committee on Selection do expeditiously nominate Members for appointment to the two Committees by the House.

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

## 5. MESSAGES

The Speaker conveyed the following Message –

### **REFERRAL BY H.E. THE PRESIDENT OF THE LAW OF CONTRACT (AMENDMENT) BILL, 2019**

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**Honourable Members,** You may recall that on 18<sup>th</sup> September, 2019, the National Assembly passed the Law of Contract (Amendment) Bill (National Assembly Bill No. 1 of 2019). The Bill was sponsored by the Member for Juja Constituency, the Hon. Francis Waititu, MP. Following its passage, I did present the Bill 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 conferred under Article 115(1)(b) of the Constitution, H.E. the President, by way of a Memorandum dated 3<sup>rd</sup> January, 2020, has since referred the Bill back to the National Assembly for reconsideration.

**Honourable Members,** in his Memorandum, H.E. the President has expressed reservations on Clause 2 of the Bill which sought to amend section 3 of the principal Act to provide that in case of a default by the principal borrower, the creditor should first realize the assets of the principal borrower before proceeding to realize the assets of the guarantor. Amongst the reasons for his reservations, H.E. the President notes that amending the law in the manner proposed in the Bill will negate a long-standing principle of contract law, prejudice the financial sector, and adversely affect credit advanced to micro, small and medium enterprises. The President also objects to the proposal on grounds that it will interfere with the operations of capital markets. Consequently, the President recommends deletion of the said Clause of the Bill, which as a matter of fact, is the primary content of the Bill.

**Honourable Members,** on the onset may inform the House and the relevant Committee that the Bill has only two Clauses, 1 and 2. The President has recommended deletion of Clause 2, and if the House agrees with the President fully, there will be Clause 1 which cites the title of 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. The Committee should table its report soonest to allow the House to consider the President's Reservations within the said timelines.

**Honourable Members**, may I, at this point, remind the House of the *Speaker's Communication* of July 28, 2015 concerning the consideration of the 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) of the Constitution as read together with Article 115(2)(a).

On the other hand, an amendment that **does not fully accommodate** the President's reservations, or indeed one that has the effect of a 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.

**Honourable Members**, I wish to further remind the House and the Committee that only Clause 2 of the Bill will be considered. I therefore direct the Clerk to circulate the memorandum from H.E. the President to all Members so that they familiarize themselves with its contents.

**I thank you!**

## 6. PAPERS

The following Papers were laid on the Table of the House by the Leader of the Majority Party –

- a) 2020 Budget Policy Statement (BPS) from the National Treasury and Planning;
- b) 2020 Medium Term Debt Management Strategy from the National Treasury and Planning;
- c) Legal Notice No. 203 of 2019 relating to the Imposition of User Fees on the Kenya Electronic Single Window System Services Regulations, 2019 and the Explanatory Memorandum from the Kenya Trade Network Agency (KENTRADE) (*referred to the Committee on Delegated Legislation*);
- d) Report of the Board of the National Government Constituencies Development Fund on Project Proposals Approvals, Disbursement Status and Restrictions imposed on the Constituency Account the period 1<sup>st</sup> October, 2019 to 31<sup>st</sup> December, 2019) (*referred to the Committee on National Government Constituencies Development Fund*);
- e) The 2019 Progress report from the Ministry of Education (*pursuant to Article 153 (4)(a) & (b) of the Constitution*) (*referred to the Committee on Education & Research*);
- f) Annual Report for the Financial Year 2018/2019 from the Ministry of Interior and Coordination of National Government (*referred to the Committee on Administration & National Security*);
- g) Performance Report for the Financial Year 2018/2019 from the Ministry of Health) (*referred to the Committee on Health*);

- h) Progress Report for the period 1<sup>st</sup> July, 2019 to 30<sup>th</sup> November, 2019 from the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works) (*referred to the Committee on Transport, Public Works & Housing*);
- i) Performance Report for January to June, 2019 from the Independent Policing Oversight Authority (*referred to the Committee on Administration & National Security*);
- j) An Evaluation Report on Status of Public Service Compliance with the Values and Principles in Articles 10 and 232 of the Constitution for the Financial Year 2018/2019 from the Public Service Commission) (*referred to the Committee on Administration & National Security*); and
- k) Information on Programmes, Outputs, Key Performance Indicators and Set Targets for Financial Year 2020/21 Medium Term from the National Treasury and Planning.

**7. MOTION - APPOINTMENT OF MEMBERS TO THE HOUSE BUSINESS COMMITTEE**

Motion made and question proposed

**THAT**, pursuant to the provisions of Standing Order 171(1), this House approves the appointment of the following Members to the House Business Committee in addition to those specified under paragraphs (a), (b), (c), (d) and (e): -

- (i) The Hon. (Dr.) Amos Kimunya, EGH, M.P.
- (ii) The Hon. Joyce Akai Emanikor, M.P.
- (iii) The Hon. Shadrack John Mose, M.P.
- (iv) The Hon. Kawira Mwangaza, M.P.
- (v) The Hon. (Dr.) Makali Mulu, M.P.
- (vi) The Hon. Mishi Juma Khamisi Mboko, M.P.
- (vii) The Hon. Godfrey Osotsi, M.P.

*(Leader of the Majority Party)*

There being no Member wishing to contribute;

Question put and agreed to

There being no other business and the time being one minute to three O'clock, the Speaker interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

**8. HOUSE ROSE - at one minute to three O'clock**

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

The Speaker will take the Chair on  
Tuesday, February 18, 2020 at 2.30 p.m.

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