



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FOURTH SESSION)
THE SENATE
ORDER PAPER

TUESDAY, MAY 26, 2020 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. **COMMITTEE OF THE WHOLE**

****THE PANDEMIC RESPONSE AND MANAGEMENT BILL (SENATE BILLS NO. 6 OF 2020)**

(Chairperson, Ad-hoc Committee on COVID-19 Situation in Kenya)

9. **COMMITTEE OF THE WHOLE**

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)

(The Senate Majority Leader)

(Resumption of debate interrupted on Tuesday, 25th February, 2020)

(Division)

10. **COMMITTEE OF THE WHOLE**

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)

(The Senate Majority Leader)

(Resumption of debate interrupted on Tuesday, 25th February, 2020)

(Division)

...../Bill

11. **COMMITTEE OF THE WHOLE**
CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE
COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF
2018)

(Chairperson, Standing Committee on Education)

(Resumption of debate interrupted on Tuesday, 25th February, 2020)
(Division)

12. **MOTION – SIXTH AND SEVENTH PROGRESS REPORTS OF THE AD-HOC**
COMMITTEE ON COVID – 19 SITUATION IN KENYA

(Chairperson, Ad-hoc Committee on COVID-19 Situation in Kenya)

THAT, the Senate **adopts** the Sixth and Seventh Progress Reports of the Ad-hoc Committee on COVID –19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 19th May, 2020 and on Tuesday 26th May, 2020, respectively.

13. *****THE NATIONAL DROUGHT MANAGEMENT AUTHORITY (AMENDMENT)**
BILL (NATIONAL ASSEMBLY BILLS NO. 26 OF 2019)

(The Senate Majority Leader)

(Second Reading)

14. ***THE REPRODUCTIVE HEALTHCARE BILL (SENATE BILLS NO. 23 OF 2019)**

(Sen. Susan Kihika, MP)

(Second Reading)

15. ***THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL**
(SEN. BILLS NO. 24 OF 2019)

(Sen. Johnes Mwaruma, MP)

(Second Reading)

16. ***THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 1 OF**
2020)

(Sen. Abshiro Halake, MP)

(Second Reading)

17. ***THE COUNTY RESOURCE DEVELOPMENT BILL (SEN. BILLS NO. 2 OF**
2020)

(Sen. Rose Nyamunga, MP)

(Second Reading)

18. **THE PROMPT PAYMENT BILL (SEN. BILLS NO. 3 OF 2020)**

(Sen. (CPA) Farhiya Haji, MP and Sen. Sakaja Johnson, MP)

(Second Reading)

...../Bill

19. *****THE SECTIONAL PROPERTIES BILL (NATIONAL ASSEMBLY BILLS NO. 23 OF 2019)**
(The Senate Majority Leader)
(Second Reading)

20. ***THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 5 OF 2020)**
(Sen. (Dr.) Agnes Zani, MP)
(Second Reading)

NOTICE

The Senate resolved on 18th February, 2020 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.

-----XX-----

KEY

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

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

****** - Denotes a Committee Bill

***** - Denotes any other Bill

NOTICE OF AMENDMENTS

A. **THE PANDEMIC RESPONSE AND MANAGEMENT BILL (SENATE BILLS NO. 6 OF 2020)

(Chairperson, Ad-hoc Committee on COVID-19 Situation in Kenya)

i) **NOTICE** is given that the Chairperson of the Ad-Hoc Committee on COVID-19 Situation in Kenya, intends to move the following amendments to the Pandemic Response and Management Bill (Senate Bills No. 6 of 2020) at the Committee Stage—

CLAUSE 3

THAT the Bill be amended by deleting clause 3.

CLAUSE 9

THAT clause 9 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (j)—

- (k) assess the country’s capacity to deal with the pandemic;
- (l) develop and publicize an appropriate national plan to manage the pandemic;
- (m) develop an appropriate post pandemic recovery framework for all sectors affected by the pandemic;
- (n) develop a community engagement strategy to manage the pandemic; and
- (o) provide up-to-date information to the public on the pandemic and the steps the Committee has taken to manage the pandemic and mitigate against its impact.

CLAUSE 13

THAT clause 13 of the Bill be amended in subclause (1) by—

- (a) deleting the word “bi-weekly status reports providing” appearing immediately after the words “submit to Parliament” and substituting therefor the words “once in every two weeks a status report providing information on”; and
- (b) inserting the following new subparagraph immediately after subparagraph (iii) in paragraph (a)—
 - (iv) resource mobilization and expenditure on the pandemic; and

CLAUSE 19

THAT the Bill be amended by deleting clause 19.

CLAUSE 20

THAT the Bill be amended by deleting clause 20.

CLAUSE 21

THAT the Bill be amended by deleting clause 21.

CLAUSE 22

THAT the Bill be amended by deleting clause 22.

CLAUSE 23

THAT the Bill be amended by deleting clause 23.

CLAUSE 24

THAT the Bill be amended by deleting clause 24.

CLAUSE 25

THAT clause 25 of the Bill be amended—

- (a) by renumbering the existing clause as subclause (1);
- (b) in the new subclause (1) deleting the word “may” appearing immediately after the words “relating to finance” and substituting therefor the word “shall”; and
- (c) by inserting the following new subclause—

(2) The Cabinet Secretary for matters relating to finance may, for purposes of subsection (1) prescribe measures restricting the Kenya Revenue Authority from the enforcement of tax obligations during a pandemic.

CLAUSE 26

THAT Bill be amended by deleting clause 26 and substituting therefor the following new clause —

Loans and mortgages. **26.** (1) Where a pandemic has a negative impact on the capacity of a borrower to meet his or her contractual obligations entered into prior to the declaration of a pandemic, the following measures shall apply during the pandemic up to two months after the end of the pandemic —

- (a) the borrower may give notice of default in writing to the respective lending financial institution specifying the reason for default to be as a result of the pandemic;
- (b) the borrower and the lending financial institution may enter into an agreement for the extension of the timelines for repayment;
- (c) where the borrower and the lending financial institution fail to agree on the timeline for extension of the repayment, the lending financial institution shall determine a reasonable timeline for repayment;
- (d) the borrower shall not be listed by a credit reference bureau on account of a default; and
- (e) the statutory notice of realisation of a security given shall not be issued.

(2) The Cabinet Secretary responsible for matters relating to finance shall—

- (a) in consultation with financial institutions, develop a criteria for debt review; and
- (b) with the approval of Parliament, implement measures to cushion lenders and borrowers.

CLAUSE 27

THAT clause 27 of the Bill be amended—

- (a) by renumbering the existing clause as subclause (1);
- (b) in the new subclause (1) by inserting the words “entered into prior to the declaration of a pandemic” immediately after the words “of obligations”;

...../Amendments
- (c) by inserting the following new subclauses immediately after the new subclause (1)—

(2) The Cabinet Secretary responsible for matters relating to finance shall—

- (a) in consultation with the association representing the largest number of lending institutions, prescribe an eligibility criterion for a moratorium under subsection (1); and
 - (b) prescribe the criteria to be applied by a lending financial institution in determining the period for which the moratorium will apply with respect to its borrowers.
- (3) A statutory agency shall not charge fees, interest or penalties for late payment or failure by a person to meet their obligations under a contract during the pandemic period.

CLAUSE 28

THAT the Bill be amended by deleting clause 28 and substituting therefor the following new clause—

Contractual obligations. **28.** Where a contract was entered into before the declaration of a pandemic and the pandemic affects the performance of a contractual obligation—

- (a) the defaulting party may give notice of default in writing to the other party citing the reason for the default to be as a result of the pandemic; and
- (b) the parties to a contract may enter into an arrangement to review the terms of the contract and to extend the timelines for the defaulting party to meet the contractual obligations.

CLAUSE 29

THAT the Bill be amended by deleting clause 29.

CLAUSE 30

THAT the Bill be amended by deleting clause 30 and substituting therefor the following new clause—

Labour relations. **30.** (1) The Cabinet Secretary responsible for matters relating to labour shall, with the approval of Parliament, develop measures to cushion employers and employees during the pandemic.

(2) The measures taken by an employer who is adversely affected by a pandemic, with respect to an employee, shall not contravene the existing employment and labour relations laws.

CLAUSE 32

THAT clause 32 of the Bill be amended in the introductory clause by deleting the word “may” appearing immediately after the words “government agencies” and substituting therefor the word “shall”.

CLAUSE 33

THAT clause 33 of the Bill be amended—

- (a) by renumbering the existing clause as subclause (1);
- (b) in the new subclause (1) by—
 - (i) inserting the words “during a pandemic” immediately after the words “other law where” in the introductory clause;
 - (ii) inserting the words “subject to subsection (2)” immediately after the words “such business may” in paragraph (a);
 - (iii) deleting paragraph (b) and substituting therefor the following new paragraph—
 - (b) the Speakers of Parliament shall, with the approval of the respective House, make guidelines on the conduct of plenary and committee sittings remotely;
 - (iv) deleting paragraph (c) and substituting therefor the following new paragraph—
 - (c) the Speaker of each county assembly shall, with the approval of the respective county assembly, make guidelines on the conduct of plenary and committee sittings remotely;
- (c) by inserting the following clauses immediately after the new subclause (1)—
 - (2) The holding of a meeting under subsection (1)(a) shall be subject to the existing laws on the conduct of meetings and the validity of resolutions.
 - (3) The Cabinet Secretary for matters relating to information, communications and technology shall make regulations for the protection of data and information transmitted during meetings held remotely.

CLAUSE 35

THAT clause 35 of the Bill be amended in subclause (1) by deleting the word “person’s” appearing immediately after the words “discharge of the” in paragraph (a) and substituting therefor the word “officer’s”.

CLAUSE 36

THAT clause 36 of the Bill be amended in paragraph (a) by deleting the words “from a public office” appearing immediately after the words “or other benefit” and substituting therefor the words “under this Act”.

CLAUSE 37

THAT clause 37 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1); and
- (b) inserting the following new subclause immediately after the new subclause (1)—
 - (2) Despite any penalty that may be imposed under subsection (1), a person who is found guilty of an offence under subsection (1) is liable to pay three times the value of the misappropriated money or goods.

CLAUSE 39

THAT the Bill be amended by deleting clause 39 and substituting therefor the following new clause —

Regulations. **39.** (1) The Cabinet Secretary may, in consultation with the National Committee and the Council of County Governors, make regulations—

- (a) prescribing anything that is required to be prescribed under this Act; and
- (b) generally, for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may, in consultation with the National Committee and the Council of County Governors, make regulations —

- (a) to provide for measures for prevention, mitigation, preparedness, response and recovery from the pandemic;
- (b) to provide for emergency registration of the relevant professionals;

(c) in consultation with—

(i) the Cabinet Secretary responsible for matters relating to information and communication technology, make regulations to provide for collection and publication of data relating to the pandemic;

(ii) the Cabinet Secretary responsible for the coordination of national government functions, make regulations to provide for use of listed premises as shelters to manage a pandemic;

(iii) the Cabinet Secretary responsible for matters relating to labour, make regulations to provide for additional services to be categorized under essential services despite the provisions of the Labour Relations Act;

Act No. 14
of 2007.

(iv) the Cabinet Secretary responsible for matters relating to trade and industry, make regulations to provide for consumer protection measures despite the provisions of the Consumer Protection Act;

(v) the Cabinet Secretary responsible for matters relating to social assistance, make regulations to provide for care and protection of vulnerable persons;

Act No. 46
of 2012.

(vi) the Cabinet Secretary responsible for matters relating to information and communication technology, make regulations to provide for conduct of public awareness and civic education on management of the pandemic; or

(d) make regulations to provide for any relevant rules or standards required for the effective implementation of this Act.

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the power of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

(4) The Cabinet Secretary shall, within three days after the publication of a regulation under this Act, ensure that a copy of the regulation is transmitted to the Clerk of the National Assembly and the Senate for tabling before each House of Parliament.

Cap. 2.
No. 23 of
2013.

(5) Each House of Parliament shall consider and either approve or annul regulations made under this Act within seven days after the tabling of the regulations in the respective House.

CLAUSE 40

THAT the Bill be amended by deleting clause 40.

NEW CLAUSE 7A

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

Declaration of the end of a pandemic. **7A.** The President shall, on the recommendation of the National Committee and by notice in the *Gazette*, declare that a pandemic is no longer a threat to the social, economic or political stability of the country.

NEW CLAUSE 30A

THAT the Bill be amended by inserting the following new clause immediately after clause 30—

Designation of vulnerable persons. **30A.** (1) The Cabinet Secretary may, in consultation with the National Committee, the Council of County Governors and the Cabinet Secretary responsible for matters relating to social assistance, by notice in the *Gazette*, designate categories of vulnerable persons affected by a pandemic.

(2) Despite subsection (1), vulnerable persons shall include—

- (a) orphans and at risk children;
- (b) persons with disabilities;
- (c) poor elderly persons;
- (d) persons who have lost their source of income owing to the pandemic;
- (e) poor widows and widowers;
- (f) persons disabled by acute chronic illnesses and who cannot meet their basic needs; and
- (g) micro, small and medium enterprises affected by a pandemic.

(3) In this Part,—

“at risk child” means a child who—

- (a) is under the care of a person who suffers a disability or serious long-term ailment which renders the person unable to care for the child;
- (b) has been abandoned by a parent or parents and is not under the care of a guardian who provides the basic needs of the child; or
- (c) is under the care of parents or guardians who are unable to provide for the child’s basic needs;

“medium enterprise” means a firm, trade, service, industry or a business activity—

- (a) whose annual turnover is at least five million shillings and does not exceed eight hundred million shillings; and
- (b) which employs between fifty and ninety-nine people.

No. 55 of 2012.

“micro enterprise” has the meaning assigned to it under section 2 of the Micro and Small Enterprises Act;

“orphan” means a child with no parents, either biological or adoptive, and who is not under the care of a guardian who provides the basic needs of the child;

“person with a disability” means a person who—

- (a) suffers from severe mental or physical disability;
- (b) the disability renders the person incapable of catering for their basic needs; and
- (c) there is no known source of income or support for the person;

“poor elderly person” means a person who has attained the age of sixty-five years and cannot meet their basic needs;

“poor widow or widower” means a widow or widower who cannot meet her or his basic needs; and

“small enterprise” has the meaning assigned to it under section 2 of the Micro and Small Enterprises Act.

No. 55 of
2012.

NEW CLAUSE 38A

THAT the Bill be amended by inserting the following new clause immediately after clause 38—

Establishment
of a fund.
No. 18 of
2012.

38.A The Cabinet Secretary responsible for matters relating to finance may, where he considers it necessary, establish a fund pursuant to section 24(4) of the Public Finance Management Act for the effective mitigation and management of the adverse effects of the pandemic.

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting the definition of the term “Fund”.

ii) **NOTICE** is given that Sen. Beth Mugo, MP intends to move the following amendments to the Pandemic Response and Management Bill (Senate Bills No. 6 of 2020) at the Committee Stage –

CLAUSE 20

THAT clause 20 of the Bill be amended by deleting paragraph (h) and substituting therefor the following new paragraphs –

- (h) provide financial support companies, micro, small and medium enterprises and other entities which have been negatively affected by the pandemic; and
- (i) provide a financial safeguards for economic losses that may have been suffered by citizens as a result of the pandemic as shall be determined in the manner prescribed by the Cabinet Secretary.

CLAUSE 26

THAT clause 26 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) –

(2A) Where, despite the implementation of the measures specified under subsection (1), a borrower is unable to meet the contractual obligations at the expiry of the two month period owing to the impact of the pandemic on that borrower –

- (a) the borrower and the lending financial institution shall review and may extend the terms of the arrangement entered into under subsection (1)(a) for such further period as shall be necessary as to enable the borrower meet the contractual obligations; and
- (b) the provisions of subsection (1) shall continue to apply for the duration of the arrangement entered into under paragraph (a).

CLAUSE 29

THAT clause 29 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clauses –

(1) A tenant who is vulnerable or belongs to a vulnerable household and who, owing to the impact of the pandemic, is unable to meet their obligations under a tenancy shall give a notice in writing to the landlord or contracting party that they are unable to meet their obligations because of the pandemic.

(1A) Upon receipt of a notice under paragraph (a), the landlord may–

- (a) require proof of the tenant’s inability to meet the obligations under the agreement;

- (b) review the terms of the agreement for the duration of the pandemic and may, for this purpose, extend the time required for the meeting of the contractual obligations during the period of the pandemic.

CLAUSE 30

THAT clause 30 of the Bill be amended in sub-clause (1) by –

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

- (b) an employer may review the terms of employment including a deduction of the wage payable to such an employee in accordance with subsection (1A).

- (b) inserting the following new sub-clause immediately after sub-clause (1) –

- (1A) An employer shall not deduct the salary or wage payable to an employee under subsection (1)(b) unless the employer has issued to the employee a one month’s notice of intention to deduct the salary or wages.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definitions immediately after the definition of the word “pandemic” –

“vulnerable household” means a family which does not have a place to reside or is living in a dwelling place subject to payment of a fee, the provider of the family is or has become unemployed or is on unpaid leave and the family has no other source of income.

“vulnerable person” means –

No. 24 of
2013.

- (a) a person specified under sections 20, 21, 22 and 23 of the Social Assistance Act; or
- (b) such other person as the Cabinet Secretary shall designate by notice in the Gazette.

iii) **NOTICE** is given that Sen. (CPA) Farhiya Ali, MP intends to move the following amendments to the Pandemic Response and Management Bill (Senate Bills No. 6 of 2020) at the Committee Stage –

CLAUSE 9

THAT clause 9 of the Bill be amended by inserting the following new paragraph immediately after paragraph (j) –

(k) make recommendations it may consider necessary to the relevant ministry to mitigate the impact of future pandemics

CLAUSE 20

THAT clause 20 of the Bill be amended by inserting the following new paragraph immediately after paragraph (h)-

(i) support micro, small and medium enterprises which have been negatively affected by the pandemic through stimulus packages.

CLAUSE 30

THAT clause 30 of the Bill be amended in subsection (1) by deleting paragraph (b).

CLAUSE 32

THAT clause 32 of the Bill be amended in the introductory clause by deleting the word “may” appearing immediately after the words “government agencies” and substituting therefor the word “shall”.

CLAUSE 37

THAT clause 37 of the Bill be amended by deleting the words “exceeding ten million shillings” appearing immediately after the words “a fine not” and substituting therefor the words "less than three times the value of the goods or money misappropriated”.

B. **THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

(Consideration of National Assembly Amendments)

Schedule of amendments, to the Bill, as passed by the National Assembly on Thursday, November 21, 2019

CLAUSE 2

THAT Clause 2 of the Bill is amended by deleting the definition of the term “Cabinet Secretary” and substituting therefor the following new definition- “Attorney-General” means the Attorney-General appointed under Article 156 of the Constitution;

CLAUSE 5

THAT Clause 5 of the Bill is amended in sub-clause (2) by deleting paragraph (b).

CLAUSE 6

THAT Clause 6 of the Bill is amended-

(a) by renumbering the existing provision as sub-clause (1);

(b) by inserting the following new sub-clause immediately after the renumbered sub-clause (1)-

(2) The County Attorney shall have the status and rank of a member of the county executive committee.

CLAUSE 20

THAT Clause 20 of the Bill is amended by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) The Attorney-General may, from time to time by notice in the *Gazette*, amend the Second Schedule.

CLAUSE 29

THAT Clause 29 of the Bill is amended by deleting the expression “Cabinet Secretary” and substituting therefor the expression “Attorney-General”

C. *THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)
(Sen. Judith Pareno, MP)

(Consideration of National Assembly Amendments)
Schedule of amendments, to the Bill, as passed by the National Assembly on Thursday, November 21, 2019

CLAUSE 5

THAT, Clause 5 of the Bill be amended-

(a) by deleting sub-clause (3) and substituting therefor the following new sub-clause-

(3) The relevant county assembly committee may, when considering the petition-

(a) invite the petitioner to clarify or submit such further information as the committee may consider necessary, and;

(b) make a site visit if it is deemed necessary to do so.

(b) by deleting sub-clause (4) and substituting therefore the following new sub-clause-

(4) The relevant county assembly committee shall respond to the petitioner by way of a report addressed to the petitioner and tabled in the county assembly and no debate on or in relation to the report shall be allowed except on the recommendation of the chairperson of the committee and with the approval of the speaker.

(c) in sub-clause (5) by inserting the words “relevant committee or the” immediately after the words “decision of the” when they first appear.

D.THE EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

(Chairperson, Standing Committee on Education)

(Consideration of National Assembly Amendments)
Schedule of amendments, to the Bill, as passed by the National Assembly on Thursday, November 21, 2019

CLAUSE 2

THAT, clause 2 of the Bill be amended by—

...../Amendments

- (a) in the definition of the term “Education Appeals Tribunal” by deleting the expression “section 92 and substituting therefor the expression “section 93”;
- (b) deleting the definition of the term “pupil”; and
- (c) inserting the following new definition in their proper alphabetical sequence—
 - “children with special needs” means children in need of special needs education;
 - “learner” has the meaning assigned to it in the Teachers Service Commission Act;
 - “special needs education” has the meaning assigned to it in the Basic Education Act;

 - “village administrator” means the office of a village administrator established in section 52 of the County Governments Act.”

CLAUSE 8

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

Duty of head teacher. **8.** (1) Where a learner admitted in an education centre fails to attend the education centre, the head teacher shall, in collaboration with the village administrator, cause an investigation of the circumstances of the learner’s absence from school.

(2) Where the head teacher finds that there are no reasonable grounds for the learner’s failure to attend school, the head teacher shall—

(a) issue a written notice to the parent of the learner requiring that parent to comply with the provisions of this Act; and

(b) submit a report on the learner to the County Education Board.

(3) A parent who without reasonable cause and after a written notice from the head teacher, fails to comply with a notice under subsection (2) commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year, or to both.

CLAUSE 9

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

Children with special needs.

9. (1) The county executive committee member shall put in place such infrastructure as may be necessary to ensure that children with special needs have access to, and are provided with early childhood education.

(2) In performing the functions under subsection (1), the county executive committee member shall-

- (a) ensure that screening tools for early identification of children with special needs and disabilities are developed and distributed for use;
- (b) ensure early identification, assessment and interventions of children with special needs and disabilities;
- (c) ensure training of personnel working with children with special needs and disabilities on use of screening tools for early interventions;
- (d) facilitate development of programmes for training and professional development for all pre-primary education providers and personnel in special needs education;
- (e) ensure that children with special needs and disabilities have equal access to recreational sporting facilities within and outside pre-primary school programmes to nurture talents;
- (f) ensure that teachers and other staff in integrated pre-primary schools plan and implement an integrated individualized education programme for the purpose of monitoring the progress of an individual child with special needs and disabilities;
- (g) liaise with other professionals and stakeholders to provide psychosocial support to children with special needs and disabilities;
- (h) facilitate provision of teacher aids to pre-primary schools to support teachers handling children with special needs and disabilities; and

- (i) ensure that children with special needs and disabilities are provided with any other necessary support.

CLAUSE 15

THAT, clause 15 of the Bill be amended–

- (a) in sub-clause (1), by deleting the expression “or is likely to meet”; and
- (b) in sub-clause (3), by deleting paragraph (b).

CLAUSE 16

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

Review of registration. **16.** (1) As soon as practicable after provisionally registering an education centre under section 15, the County Education Board shall inform the County Executive Committee member of the provisional registration.

(2) The County Executive Committee member shall cause the county early childhood quality assurance committee to review any education centre that is provisionally registered under section 15 either–

- (a) between six and twelve months after the provisional registration of the education centre or proposed education centre; or
- (b) a period earlier than that specified in paragraph (a) if in the opinion of the County Executive Committee member, a shorter time is necessary.

(3) The County Executive Committee member shall cause a further review of an education centre to be conducted upon the request of the County Education Board.

(4) The County Executive Committee member shall submit the findings of a review under this section to the County Education Board and to the head teacher of the education centre for implementation.

(5) The findings submitted under subsection (4) shall include–

- (a) information on whether the education centre meets the criteria for registration as an education centre; and
- (b) information on the areas where improvement is required, if it does not meet the criteria.

CLAUSE 20

THAT, clause 20 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) The board of management shall not change the location of the centre nor acquire additional premises for the purpose of running the education centre unless it has applied to, and obtained the approval, of the County Education Board.”

(b) in sub-clause (3) by deleting the words “head teacher” and substituting therefor the expression “board of management”

CLAUSE 23

THAT, clause 23 of the Bill be amended—

(a) in sub-clause (1) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) the head teacher of the education centre has breached or is breaching his or her statutory duties in relation to the education centre under this Act or any other written law;”

(b) in sub-clause (2) by deleting the word “pupil” appearing in paragraph (b) and substituting therefor the word “learner”.

CLAUSE 24

THAT, clause 24 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “pupils” appearing in the opening sentence and substituting therefor the word “learners”; and

(b) in sub-clause (3) by deleting the word “pupils” appearing in paragraph (a) and substituting therefor the word “learners”.

CLAUSE 25

THAT, clause 25 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “are” appearing in paragraph (b) after the word “centre” and substituting therefor the word “is”;

(b) in sub-clause (2)—

(i) by deleting the words “head teacher” appearing in paragraph (b) and substituting therefor the expression “board of management”; and

(ii) by deleting the words “head teacher” appearing in paragraph (c) and substituting therefor the expression “board of management”;

CLAUSE 27

THAT, clause 27 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) A public education centre shall not be converted to a private education centre or to any other private status without consultation with the County Education Board and approval by the County Executive Committee member.”

CLAUSE 28

THAT, clause 28 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) Notwithstanding the generality of subsection (2), the role of the sponsor under subsection (1) shall be to—

- (a) participate and make proposals for the review of syllabus, curriculum, books and other teaching aids; and
- (b) offer financial, infrastructural and spiritual support to the education centre.”

CLAUSE 29

THAT, clause 29 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

“(3) In the performance of its functions under subsection (2)(b) and (c), the board of management shall first seek the approval of the County Education Board.”

CLAUSE 30

THAT, clause 30 of the Bill be amended in sub-clause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) one person elected by the parents from each level within the education centre to represent parents of learners in the education centre;”

CLAUSE 33

THAT, clause 33 of the Bill be deleted.

CLAUSE 35

THAT, clause 35 of the Bill be amended by deleting the word “pupil” wherever it appears and substituting therefor the word “learner”.

CLAUSE 36

THAT, clause 36 of the Bill be amended in sub-clause (1) by—

- (a) deleting paragraph (a); and
- (b) deleting paragraph (c).

CLAUSE 37

THAT, clause 37 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) –

“(3) In the performance of the functions under this section, the County Education Board shall establish a County Early Childhood Education Committee, as a committee of the County Education Board, to oversee the implementation of early childhood education in each county.”

CLAUSE 41

THAT, clause 41 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) –

“(4) A child shall not be denied admission in an early childhood education centre for lack of proof of age.”

CLAUSE 43

THAT, clause 43 of the Bill be deleted and substituted with the following new clause—

Prohibition from holding back and expulsion. **43.** A learner admitted in an education centre shall not be held back in any class or expelled from the centre without the approval of the County Education Board.

CLAUSE 44

THAT, clause 44 of the Bill be deleted and substituted with the following new clause—

Standards of education in a private education centre. **44.** A private education centre shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development.

CLAUSE 46

THAT, clause 46 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “pupil” and substituting therefor the word “learner”; and
- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) A head teacher or a member of the board of management of a public education centre who imposes a charge or causes any parent or guardian to pay tuition fees commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months, or to both.”

CLAUSE 47

THAT, clause 47 of the Bill be amended in paragraph (c) by deleting the expression “need for the”.

CLAUSE 56

THAT, clause 56 of the Bill be amended in sub-clause (1) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) reject the application and give written reasons for the rejection.”

CLAUSE 63

THAT, clause 63 of the Bill be amended—

(a) in sub-clause (1) by—

- (i) deleting the word “fifteen” appearing in paragraph (a) and substituting therefor the word “ten”; and
- (ii) deleting the expression “Education Standards and Quality Assurance Council” appearing in paragraph (d) and substituting therefor the words “quality assurance body established under the Basic Education Act”;
- (iii) inserting the following new paragraph immediately after paragraph (e)—
“(f) one person representing persons with disabilities nominated by the National Council for Persons with Disabilities.”

(b) in sub-clause (5) by—

- (i) inserting the expression “make proposals for” immediately after the expression “and where appropriate” appearing in paragraph (c); and
- (ii) deleting paragraph (d).

CLAUSE 64

THAT, clause 64 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “pupils” appearing in paragraph (b) and substituting therefor the word “learners”; and
- (b) in sub-clause (4) by deleting the word “pupils” and substituting therefor the word “learners”.

CLAUSE 66

THAT, clause 66 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) if the service provider makes an application within the required period, the centre continues to be registered under subsection (1) until that application is determined.”

CLAUSE 68

THAT, clause 68 of the Bill be amended in sub-clause (3)—

- (a) in paragraph (c) by inserting the word “one” immediately after the expression “registration certificates of”; and
- (b) by deleting paragraph (h).

CLAUSE 69

THAT, clause 69 of the Bill be deleted and substituted therefor the following new clause—

General penalty. **69.** A person who contravenes any provision of this Act for which no penalty is specifically provided commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding one year, or to both.

SECOND SCHEDULE

THAT, the Second Schedule to the Bill be amended in paragraph 1 by—

- (a) deleting the word “two” appearing in sub-paragraph (1) and substituting therefor the word “three”; and
- (b) deleting the word “vice-chairman” appearing in sub-paragraph (4) and substituting therefor the word “vice-chairperson”.
