



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FOURTH SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, JUNE 02, 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 –

**(i) ON BILLS PUBLISHED DURING THE RECESS PERIOD AND WITHDRAWAL OF THE INCOME BILL**

**Honourable Members**, you will recall that on 6<sup>th</sup> May, 2020, the House resolved as follows-

*“That, should a Bill be published during the period of the May/June recess, or a published Bill becomes due for First Reading during the period, the Speaker shall, upon lapse of seven days following the publication of the Bill, forthwith refer such Bill to the relevant Committee for consideration pursuant to the provisions of Standing Order 127 (Committal of Bills to Committees and public participation) and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine.”*

In this regard, **Hon. Members** I wish to report to the House that, The Referendum Bill, (National Assembly Bill No. 11 of 2020) was published on 8<sup>th</sup> May 2020. The Bill, which is sponsored by the Constitutional Implementation Oversight Committee (CIOC), proposes to provide for the procedure of approval of an amendment to the Constitution through a referendum, the conduct of a referendum, referendum petitions and for connected purposes. In accordance with the resolution of the House of 6<sup>th</sup> May, 2020, I have since referred the Bill to the CIOC for consideration, including undertaking the necessary public participation on the Bill. You will also note that the Bill is scheduled to be read *a First Time* today.

Hon. Members, similarly, I wish to report to the House that The Income Tax Bill, (National Assembly Bill No. 12 of 2020) was also published during the recess

period, precisely on 22<sup>nd</sup> May, 2020. In accordance with the resolution of the House on 6<sup>th</sup> May, 2020, the Bill is now due for committal to the relevant Departmental Committee. However, Hon. Members, I have since received a letter from the Leader of the Majority Party requesting to withdraw the Bill for fresh publication. In his letter, the Leader of the Majority Party explains that the Bill was published in the form in which it was received from the National Treasury in early March, 2020 and part of its proposals have since been overtaken by events, following the enactment of the Tax Laws (Amendment) Act, 2020.

The Leader of the Majority Party for instance cites the reduction of the Corporate Tax as well as the top rate of Pay-As-You-Earn (PAYE) from 30% to 20% and 25%, respectively, which were contained in the Tax Laws (Amendment) Act, 2020 and which the newly published Income Tax Bill, 2020 seem to be inadvertently reversing.

**Hon. Members**, Standing Order 140 provides, (and I quote) –

- 1) *Either before the commencement of business or on the Order of the Day for any stage of the Bill being read, the Member in charge of a Bill may, without notice, claim to withdraw a Bill.*
- 2) *If the Speaker is of the opinion that the claim is not an abuse of the proceedings of the House, the Speaker shall direct that the Bill shall be withdrawn.*

In this regard, Hon. Members, The Income Tax Bill, (National Assembly Bill No. 12 of 2020) hereby stands withdrawn.

**Honourable Members**, The Leader of the Majority Party indicates that he wishes to reintroduce the Bill within the Session after addressing the issues he has cited, a request that I have acceded to. Noting that there are further amendments proposed to be made to the Income Tax Act in the Finance Bill, 2020, which is scheduled to be passed by the end of this month, it would be only prudent to undertake the republication of The Income Tax Bill, 2020 after the enactment of the Finance Bill, 2020.

The House is accordingly guided.

(ii) **REGARDING THE PRESENTATION OF BUDGET HIGHLIGHTS FOR THE FISCAL YEAR 2020/2021**

**Honourable Members**, pursuant to the provisions of Standing Order 244C on “*Pronouncement of Budget highlights and revenue raising measures*”, the Cabinet Secretary responsible for Finance is required make public pronouncement of the budget policy highlights and revenue raising measures for the national government in the National Assembly as contemplated under the Public Finance Management Act.

**Honourable Members**, In this regard, I wish to inform the House that I have received a letter from the Cabinet Secretary for National Treasury, requesting to make public pronouncements on the Budget highlights and Revenue Raising Measures for the National Government for the financial year 2020/2021, in the House on Thursday, June 11, 2020. I have since acceded to the request and therefore the Cabinet Secretary for the National Treasury will make public pronouncements on the Budget Highlights and Revenue raising measures for the

National Government for the Fiscal Year 2020/2021 on Thursday, 11<sup>th</sup> June 2020 at 3.00pm.

In this regard, **Honourable Members**, and in keeping with the Speaker's Guidelines on the conduct of plenary sittings during the COVID-19 pandemic period issued on 2<sup>nd</sup> and 11<sup>th</sup> April 2020, I wish to inform the House that the Leadership of the House, Members of the Budget and Appropriations Committee, Chairpersons of Departmental Committees as well as Chairpersons of other select committees will be accommodated in the Chamber. The rest of the Members may follow the proceedings from the designated areas.

**Honourable Members**, You are encouraged to be present during this important event that is synchronized with the budget cycles of the rest of the East African Community. The Budget highlights will focus mainly on ways and means of financing the Budget in 2020/2021 and in the medium-term, prior to the House concluding the Committee of Supply. **I thank you.**

## 5. PAPERS LAID

The following Papers were laid on the Table –

- a) **Legal Notice No. 71 of 2020** relating to the Public health (Covid-19 Restriction of Movement of Persons and Related Measures) (Mandera County) Order, 2020 and the Explanatory Memorandum;
- b) **Legal Notice No. 72 of 2020** relating to the Public health (Covid-19 Restriction of Movement of Persons and Related Measures)(Nairobi Metropolitan Area) (Extension) Order, 2020 and the Explanatory Memorandum;
- c) **Legal Notice No. 73 of 2020** relating to the Public Health (Covid-19 Restriction of Movement of Persons and Related Measures)(Mombasa County) (Extension) Order, 2020 and the Explanatory Memorandum;
- d) **Legal Notice No. 74 of 2020** relating to the Public health (Covid-19 Restriction of Movement of Persons and Related Measures)(Kilifi County) (Extension) Order, 2020 and the Explanatory Memorandum;
- e) **Legal Notice No. 75 of 2020** relating to the Public health (Covid-19 Restriction of Movement of Persons and Related Measures)(Kwale County) (Extension) Order, 2020 and the Explanatory Memorandum;
- f) **Legal Notice No. 77 of 2020** relating to the Public health (Covid-19 Restriction of Movement of Persons and Related Measures)(Daadab Refugee Complex and Kakuma Refugee Camp) Order, 2020 and the Explanatory Memorandum;
- g) **Legal Notice No. 83 of 2020** relating to the Public health (Covid-19 Restriction of Movement of Persons and Related Measures)(Eastleigh Area) Order, 2020 and the Explanatory Memorandum; and
- h) **Legal Notice No. 84 of 2020** relating to the Public health (Covid-19 Restriction of Movement of Persons and Related Measures)(Mombasa Old Town) Order, 2020 and the Explanatory Memorandum.

a. *(Items (a) to (h) to be referred to the Committee on Delegated Legislation)*

- i) Bilateral Air Services Agreement (BASA) between the Republic of Kenya and Russia Federation and the explanatory memorandum; *(to be referred to the Departmental Committee on Transport, public Works and Housing)*
- j) Report to Parliament on all new loans contracted by the government of Kenya from 1<sup>st</sup> September 2019 to 30<sup>th</sup> April 2020 *(to be referred to the BAC)*
- k) Annual Performance Report for the financial year 2018/2019 from the Ministry of Industrialization, Trade and Enterprise development *(pursuant to Article 153 (4)(a) & (b)) of the Constitution)(to be referred to the Committee on Trade, Industry and Cooperatives).*
- l) The Quarterly Economic and budgetary Review Report in the 2019/2020 Financial year for the period ending on 31<sup>st</sup> march 2020 *(to be referred to the BAC);*
- m) Bi-annual Report for the Commission on Administrative Justice for the Period January – June 2019 and July – December 2019 *(to be referred to the JLAC); and*
- n) List of Nominees to Forty-One (41) National Government Constituencies Development Fund Committees from the National Government Constituencies Development Fund Board for the following Constituencies:

- |                      |                      |
|----------------------|----------------------|
| 1. Garsen            |                      |
| 2. Kabondo Kasipul   | 22. Hamisi           |
| 3. Turkana West      | 23. Kesses           |
| 4. Balambala         | 24. Kiambaa          |
| 5. Eldas             | 25. Kikuyu           |
| 6. Gatanga           | 26. Lari             |
| 7. Homabay Town      | 27. Nakuru Town West |
| 8. Kilgoris          | 28. Rabai            |
| 9. Malindi           | 29. Suba North       |
| 10. Mathare          | 30. Tharaka          |
| 11. Mbooni           | 31. Voi              |
| 12. Nambale          | 32. Baringo Central  |
| 13. Westlands        | 33. Jomvu            |
| 14. Bahati           | 34. Kiminini         |
| 15. Bomachoge Chache | 35. Kisumu West      |
| 16. Gichugu          | 36. Kuresoi South    |
| 17. Machakos Town    | 37. Laikipia East    |
| 18. Mandera East     | 38. Samburu East     |
| 19. Matuga           | 39. Sirisia          |
| 20. Rongai           | 40. Tinderet         |
| 21. Vihiga           | 41. Uriri            |

*(The Leader of the Majority Party)*

- o) Report on consideration of the Special Audit Report on Procurement of Pre-export Verification of Conformity (PVOC) to standard service for Used Motor Vehicle, Mobile Equipment and Used Spare Parts by Kenya Bureau of Standards;

*(Chairperson, Public Investments Committee)*

**6. NOTICES OF MOTION**

The following Notices were given –

**(i) Notice of Motion - Alteration of the Calendar of the House**

**THAT**, pursuant to the provisions of Standing Order 28(4), this House resolves to further alter its Calendar (Regular Sessions) for the Fourth Session (2020), as amended on Tuesday, April 14, 2020 and resolves to-

a) suspend its Sittings of Wednesdays (morning and afternoon) during the month of June, 2020 and the sitting of July 1, 2020;

b) hold Sittings during the month of June 2020 as follows: -

(i) Morning and Afternoon Sittings on Tuesdays of June 9th, 16th, 23rd and 30th June, 2020 commencing at 10.00 a.m. and 2.30 p.m. respectively;

(ii) Afternoon Sittings on Thursday, June 4th, 11th, 18th and 25th June, 2020 at 2.30 p.m.;

c) hold an afternoon Sitting on Thursday, July 2, 2020 commencing at 2.30 p.m.

*(The Leader of the Majority Party)*

**(iii) Notice of Motion - Report of the Public Investment Committee on consideration of the Special Audit Report on Procurement of Pre-export Verification of Conformity (PVOC) to standard service for Used Motor Vehicle, Mobile Equipment and Used Spare Parts by Kenya Bureau of Standards;**

**THAT**, this House adopts the Report of the Public Investment Committee on consideration of the Special Audit Report on Procurement of Pre-export Verification of Conformity (PVOC) to standard service for Used Motor Vehicle, Mobile Equipment and Used Spare Parts by Kenya Bureau of Standards, laid on the Table of the House on Tuesday, 2<sup>ND</sup> June 2020 and pursuant to provisions of

*(Chairperson, Public Investment Committee)*

**(iv.) Notice of Motion - Report on the vetting of a nominees for appointment to 41 constituency committees of the National Government Constituency Development Fund**

**THAT**, pursuant to the provisions of Section 43(4) and Regulation 5(10) of the National Government Constituency Development Fund, 2015, this House **approves** the list of nominees for appointment to the following forty one (41) Constituency Committees of the National Government Constituency Development Fund, *laid on the Table of the House on Tuesday, June 2, 2020.*

*(Chairperson, Select Committee on National Government Constituency Development Fund)*

**7. STATEMENTS****A. Request for Statement**

Pursuant to Standing Order 44 (2), the following Requested for Statements were sought –

- (i) The Member for Mvita Constituency (Hon. Abdullswamad Nassir) sought the speaker guidance forced rail transportation of cargo from Mombasa to Naivasha Inland Container Depot by Standard Gauge Railway; *(to be referred to the Committee on Implementation)*; and
- (ii). The Member for Kilifi North Constituency (Hon. Owen Baya Yaa) requested for a Statement from the Chairperson, Committee on Administration and National Security regarding curfew and inter-county cessation of movement in the country.

**B. Responses to Requests for Statements:-**

The Chairperson, Departmental Committee on Administration and National Security, the Hon. Paul Koinange, MP responded to Requests for Statement as follows: -

- (i) Request for a Statement by the Member for Kajiado Central Constituency (the Hon. Elijah Memusi, MP ) regarding movement of people and livestock across the Kenya – Tanzania Namanga Border Point; and
- (ii) Request for a Statement by the Member for Gichugu Constituency (the Hon. Gichimu Githinji, MP) regarding the welfare of Village Elders, Block Leaders and Nyumba Kumi Volunteers during the COVID-19 pandemic.

**C. General Statement**

Pursuant to the provisions of Standing Order 43, the Member for Makueni Constituency (the Hon. Daniel Kitonga Maanzo) made a Statement regarding the demise of the Hon. Peter Lee Nyamasyo Kiilu, EBS, a former Member of Parliament for Makueni Constituency which occurred on Tuesday 19<sup>th</sup> May 2020.

**8. POINT OF ORDER**

- a) Rising in his place on a point of order, pursuant to provisions of Standing Orders 1, 172, 173 and 176, the Member for Ugenya Constituency (Hon. David Ochieng) raised the following issues on:-
  - (i) Nomination of Members to Select Committees;
  - (ii) Criteria for nomination; and
  - (iii) Procedure for discharge of Member from a committee.

The Member requested the Speaker to issue a considered ruling with regard to his dewhipping from Committee by the NASA Coalition and in particular in relation to nomination of Independent Members of Parliament to committees as provided in the Standing Orders.

- b) Rising in his place on a point of order, pursuant to provision of Standing Orders 230 and Articles 127, 248 and 251 of the Constitution, the Member for Rarieda Constituency (Hon. Amollo Otiende) raised an issue on the constitutionality and procedure for Removal from Office of a Member of Commission and requested the Speaker to guide the House on the said matter.

**9. PROCEDURAL MOTION – LIMITATION OF DEBATE**

Motion made and Question proposed –

**THAT**, pursuant to the provisions of Standing Order 97(1) and notwithstanding the resolution of the House of February 18, 2020, this House **further resolves** that, during the Sittings of the House from June 4, 2020 to July 2, 2020, each speech in **debate on Bills, Motions (including Special Motions), Sessional Papers and Committee Reports**, shall be limited as follows:- a maximum of **two hours** with not more than ten (10) minutes for the Mover in moving and five (5) minutes in replying and a maximum of five (5) minutes for any other Member speaking, except for the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Committee who shall be limited to a maximum of ten (10) minutes, and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and Chairperson of the relevant Committee, in that order; Provided that, the resolution **shall** not apply to the Second Reading of the Finance Bill, 2020, debate on the Budget Estimates and the Committee of Supply for the Financial Year 2020/2021.

*(The Leader of the Majority Party)*

Debate arising;

Question put and agreed to.

**10. THE REFEREDUM BILL (NATIONAL ASSEMBLY BILL NO.11 OF 2020)**

*(Chairperson, Constitutional Implementation Oversight Committee)*

Order for First Reading read;

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

**11. MOTION – ALTERATION OF THE CALENDAR OF THE HOUSE**

Motion made and Question proposed –

**THAT**, pursuant to the provisions of Standing Order 28(4), this House **resolves to further alter** its Calendar (*Regular Sessions*) for the Fourth Session (2020), as amended on Tuesday, April 14, 2020 and resolves to-

- a) suspend its Sittings of Wednesdays (morning and afternoon) during the month of June, 2020 and the sitting of July 1, 2020;
- b) hold Sittings during the month of June 2020 as follows-
  - (i) Morning and Afternoon Sittings on Tuesdays of June 9th, 16th, 23rd and 30th June, 2020 commencing at 10.00 a.m. and 2.30 p.m. respectively;
  - (ii) Afternoon Sittings on Thursday, June 4th, 11th, 18th and 25th June, 2020 at 2.30 p.m.;
- c) hold an afternoon Sitting on Thursday, July 2, 2020 commencing at 2.30 p.m.

*(The Leader of the Majority Party)*

There being no debate arising;

Question put and agreed to.

(Change of Chair from the Hon. Speaker to the First Chairperson)

**12. MOTION – ESTABLISHMENT OF AN AD-HOC COMMITTEE ON COVID-19 PREVENTION, RESPONSE AND MANAGEMENT**

Motion made and Question proposed –

**THAT**, aware that the Coronavirus Pandemic (COVID-19) was declared by the World Health Organization (WHO) to be a Public Health Emergency of International concern;

**DEEPLY CONCERNED** on the serious threat posed to the health and social-economic lives of Kenyans by the continued the spread of the Pandemic;

**APPRECIATING** that both the National and County Governments have put in place some targeted interventions to respond and manage the COVID-19 pandemic through among others, enhanced medical and public health actions, mitigating social-economic shocks arising from the impact of the pandemic, creation of a National Emergency Response Fund to foster the national response to the pandemic, and formation of a National Emergency Response Committee on Coronavirus which is tasked with among other things, to coordinate Kenya’s preparedness, prevention and response to the threat of COVID-19, and develop mitigation strategies with regard to the disease;

**COGNIZANT THAT** some of the policy measures and targeted interventions put in place by the Government are yet to be anchored in legislation and/or approved by Parliament;

**NOW THEREFORE;** this House resolves as follows –

(i) to acknowledge and appreciate individuals and corporate entities, development partners and multinational institutions for local and international technical, financial and human assistance efforts and support in response to the pandemic;

(ii) to establish an *ad-hoc* Committee to be known as the **Select Committee on the COVID-19 Prevention, Response and Management**, whose mandate will be as follows-

(a) develop necessary legislative measures on COVID-19 prevention, response and management through which the Government would anchor the mechanisms to prevent, combat and respond to the pandemic, and to any other pandemics in the future, including but not limited to, ensuring enhanced medical and public health actions and facilities, strategies for cushioning the country from the effects of such pandemic on the social support system, economic stimulus for the Micro, Small and Medium Enterprises, and national public order measures for the maintenance of specific and competent functions during and after such pandemic;

(b) coordinate closely with the *National Emergency Response Committee on COVID-19* which is tasked with among other things, coordinating the country’s preparedness, prevention and response in the actions and measures taken to ensure that the *Committee* delivers on its mandate more effectively; and

(c) consider funding needs and requirements on *COVID-19* prevention, combat, response and management; and,



(d) report and make recommendations on the item under paragraphs (a), and (c) and any other related matters within thirty (30) days, and make weekly progress reports on item (b) to the House, until the end of the pandemic.

(iii) that the Membership of the Committee be as follows-

- 1) The Hon. M. D. Ngunjiri Wambugu, M.P.
- 2) The Hon. (Dr.) Amos Kimunya, EGH, M.P.
- 3) The Hon. (Dr.) Makali Mulu, M.P.
- 4) The Hon. Yusuf Hassan, M.P.
- 5) The Hon. Alice Wahome, M.P.
- 6) The Hon. Florence Mutua, M.P.
- 7) The Hon. Peris Tobiko, M.P.
- 8) The Hon. Peter Kaluma, M.P.
- 9) The Hon. Mishi Khamisi, M.P.
- 10) The Hon. Beatrice Nyaga, M.P.
- 11) The Hon. Janet Ongera, M.P.
- 12) The Hon. (Dr.) Otiende Amollo, M.P.
- 13) The Hon. Gathoni Wamuchomba, M.P.
- 14) The Hon. Godfrey Osotsi, M.P.
- 15) The Hon. Didmus Barasa, M.P.
- 16) The Hon. Joshua Kandie, M.P.
- 17) The Hon. (Dr.) Daniel Kamuren Tuitoek, M.P.
- 18) The Hon. Patrick Munene, M.P.
- 19) The Hon. Anthony Oluoch, M.P.
- 20) The Hon. John Kiarie, M.P.
- 21) The Hon. Abdi Omar Shurie, M.P.
- 22) The Hon. Major (Rtd) Bashir Abdullaih, M.P.
- 23) The Hon. Teddy Mwambire, M.P.

*(Hon. Ngunjiri Wambugu 0 06.05.2020)*

Debate interrupted on Wednesday, May 6, 2020 (Afternoon sitting) resumed;

*(Change of Chair from the Speaker to the Second Chairperson)*

### **Proposed amendment**

**THAT**, the Motion be amended in paragraph (iii) by inserting the following two additional members-

- (i) Hon. Dennitah Ghati, HSC, M.P, and
- (ii) Hon. David Sankok, M.P.

*(The Hon. Dennitah Ghati)*

Amendment moved  
Question to the Amendment proposed  
Debate Arising

Question to the amendment put and negatived

Debate Arising

**13. QUORUM OF THE HOUSE**

Rising on a Point of Order pursuant to Standing Order 35, the Member for Seme (Hon. (Dr.) James Nyikal) drew the attention of the First Chairperson that there was no Quorum in the House;

And the Chairperson having confirmed that there was no Quorum, ordered the Division Bell to be rung;

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

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

**14. HOUSE ROSE** - at Eight Minutes to Six O'clock.

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

The Speaker will take the Chair on  
Thursday, June 04, 2020 at 2.30 p.m.

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