

Twelfth Parliament



Fourth Session

REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, AUGUST 05, 2020

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Hon. Deputy Speaker

4. **MESSAGES**

The Speaker conveyed the following Message from the Senate:

On passage of the County Tourism Bill (Senate Bill No. 5 of 2019); the Care & Protection of Child Parents Bill (Senate Bill No. 11 of 2019); and the Independent Electoral and Boundaries Commission (Amendment)(No3) Bill (National Assembly Bill No. 35 of 2019

“**Honourable Members**, pursuant to the provisions of Standing Order 41, I wish to report to the House that I have received Messages from the Senate regarding its decision on the following Bills: -

- (i) The County Tourism Bill (Senate Bill No. 5 of 2019);
- (ii) The Care & Protection of Child Parents Bill (Senate Bill No. 11 of 2019); and
- (iii) The Independent Electoral & Boundaries Commission (Amendment) (No. 3) Bill (National Assembly Bill No. 35 of 2019).

Honourable Members, the First Message is in respect of the passage of the County Tourism Bill (Senate Bill No. 5 of 2019) by the Senate on July 23, 2020.

The Bill, which was published vide the Kenya Gazette Supplement No. 50 of 15th April 2019, seeks to provide for, inter alia, “the development, management, marketing and promotion of local tourism by county governments; and the regulation of sustainable local tourism and related activities and services.”

Honourable Members, the Second Message relates to the Care & Protection of Child Parents Bill (Senate Bill No. 11 of 2019). The Bill was published vide Kenya Gazette Supplement No. 81 of 11th June 2019 to, among other things, “provide for a framework for the care and protection of child parents within counties and to provide a framework

through which an expectant child or child parent may actualize their right to basic education and the care of their children.

Honourable Members, the Third and last Message relates to the passage of the Independent Electoral & Boundaries Commission (Amendment) (No. 3) Bill (National Assembly Bill No. 35 of 2019). You will recall that this was passed by the National Assembly on 19th September 2019 and sought to, inter alia, establish a Selection Panel to oversee the filling of vacant positions in the Independent Electoral & Boundaries Commission. The Senate has proposed an amendment to Clause 2 of the Bill to, among other things, reduce the composition of the Selection Panel from the proposed eleven (11) to seven (7) members and to further provide for the qualification of a member of the Selection Panel.

Honourable Members, the Messages convey in part “that the Senate considered and passed the said Bills with amendments on Thursday, 23rd July, 2020 and now seeks the concurrence of the National Assembly in accordance with the provisions of Article 112(1)(b) of the Constitution.”

Honourable Members, Standing Order 143(1)(a) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of its Message. Accordingly, I direct that the County Tourism Bill (Senate Bill No. 5 of 2019) and the Care & Protection of Child Parents Bill (Senate Bill No. 11 of 2019) be scheduled for a First Reading during the next sitting of the House. Further, paragraph (2) of Standing Order 143 provides that –

143(3) “Following First Reading, the Speaker shall, within reasonable time, pronounce his or her opinion contemplated under Article 114(2) of the Constitution.”

Honourable Members, the opinion contemplated under Standing Order 143(2) is a pronouncement, by the Speaker, on whether a Bill originating in the Senate is a ‘Money Bill’ in terms of Article 114 of the Constitution. In this regard, I direct that, after First Reading, the two (2) Bills be referred to the Parliamentary Budget Office to offer the Speaker the advice envisaged under Standing Order 143(2). Thereafter, I shall guide the House accordingly on how to proceed with the consideration of each of the two Bills.

Honourable Members, with regard to the Independent Electoral & Boundaries Commission (Amendment) (No. 3) Bill (National Assembly Bill No. 35 of 2019), I direct the Clerk to circulate the amendments to all Members in accordance with Standing Order 145. Further, the Senate amendments on the Bill are hereby committed to the Departmental Committee on Justice & Legal Affairs for consideration. The Committee is expected to submit its report before the amendments are considered by the House. For the avoidance of doubt, the House is reminded that the National Assembly will only consider the amendments made by the Senate to the Bill and not any other part of the Bill. **Thank you!**”

5. PETITIONS

The Speaker conveyed the following Petition -

Petition regarding a proposal to amend Sections of the Civil Procedure Act and the Law of Succession Act.

“Honourable Members, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition, other than those presented by a Member. I therefore wish to report to the House that my Office has received a Petition from Messrs Ephantus Nyaga, Francis Nyaga Njeru, Elias Ireri and Isaiah Njiru Njeru of P.O. Box 56 Runyenjes calling for amendment to section 2 of the Civil Procedure Act and section 3 of the Law of Succession Act to allow a court to, within six months, appoint an administrator or legal representative where a party to a suit is deceased.

In their Petition, **Honourable Members,** the petitioners argue that the current legal framework does not permit a person/ a party to represent the estate of a deceased person unless he or she has received a grant of letters of administration whose timeline is currently not specified. The petitioners aver that this situation stalls progress on property disputes before courts following demise of the owner or administrator of an estate who is party to the case. Consequently, civil cases involving the deceased person’s property drag in courts perpetually after the sued or suing party fail to replace the deceased as legal administrator or fail to pursue legal remedy in the appointment of an administrator.

Further, **Honourable Members,** the petitioners reveal that they are themselves victims of the aforementioned laws and are additionally aware of numerous families that are affected by the said legal bottlenecks.

It is on this premise, **Honourable Members,** that the petitioners seek the intervention of this August House in amending the Civil Procedure Act and the Law of Succession Act to allow a court to, within six months, appoint an administrator or legal representative where a party to a suit is deceased.

Honourable Members, pursuant to the provisions of Standing Order 227, this Petition therefore stands committed to the Departmental Committee on Justice and Legal Affairs. The Committee is requested to consider the Petition and report its findings to the House and to the petitioners in accordance with Standing Order 227(2). I thank you!”

(The Petition was referred to the relevant Departmental Committee on Justice and Legal Affairs pursuant to Standing Order 227(1))

6. PAPERS LAID

The following Papers were laid on the Table of the House –

- (i) Legal Notice No. 111 of 2020 relating to the Tax Procedures (Tax Agents) Regulations, 2020 and the Explanatory Memorandum from the National Treasury;
- (ii) Legal Notice No. 112 of 2020 relating to the Tax Procedures (Unassembled Motorcycles) Regulations, 2020 and the Explanatory Memorandum from the National Treasury;
- (iii) Legal Notice No. 113 of 2020 relating to the Excise Duty Regulations, 2020 and the Explanatory Memorandum from the National Treasury;

- (iv) Legal Notice No. 115 of 2020 relating to the Retirement Benefits (Forms and Fees) (Amendment) Regulations, 2020 and the Explanatory Memorandum from the National Treasury;
- (v) Legal Notice No. 118 of 2020 relating to the Crops (Horticultural Crops) Regulations, 2020 and the Explanatory Memorandum from the Ministry of Agriculture, Livestock, Fisheries and Cooperatives;
- (vi) Legal Notice No. 120 of 2020 relating to the Crops (Fibre Crops) Regulations, 2020 and the Explanatory Memorandum from the Ministry of Agriculture, Livestock, Fisheries and Cooperatives;
- (vii) Legal Notice No. 123 of 2020 relating to the Tax Procedures (Settlement of Tax Disputes out of Court or Tribunal) Regulations, 2020 and the Explanatory Memorandum from the National Treasury;
- (viii) Legal Notice No. 124 of 2020 relating to the Petroleum Development Levy Order, 2020 and the Explanatory memorandum from the Ministry of Petroleum and Mining;
- (ix) Annual Report and Financial Statements of the Kenya Bankers Association for the year ended 31st December, 2019; and
- (x) Report of the Auditor-General and Financial Statements of the Central Bank of Kenya for the year ended 30th June, 2019.

(The Hon. (Dr.) Amos Kimunya - Leader of the Majority Party)

- (xi) Report on the Petition to reconsider House resolution regarding implementation status of the report on the crisis facing the sugar industry in Kenya.

(The Hon. Richard Ole Kenta - Chairperson, Committee on Implementation)

7. NOTICES OF MOTION

The following Notice of Motion was given: -

Notice of Motion – Report on the Petition on the alleged invasion of LR 5875/2 in Roysambu Constituency by the Kenya Defence Forces

(Chairperson, Departmental Committee on Lands)

THAT, this House adopts the Report of the Departmental Committee on Lands on its consideration of the Petition on the alleged invasion of LR 5875/2 in Roysambu Constituency by the Kenya Defence Forces laid on the Table of the House on Thursday, 2nd July, 2020.

8. QUESTIONS

The following Questions were asked –

- (i) **Question by Private Notice No.017/2020** by the Member for Mavoko (Hon. Patrick Makau King'ola, M.P.) regarding the number of negative-pressure Intensive Care Unit (ICU) beds in the country and the number of medical

personnel and other patients infected with Covid-19 arising out of lack of the negative-pressure ICU beds.

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

- (ii) **Question No. 081/2020** by the Member for Loima (Hon. Jeremiah Ekamais Lomorukai, M.P.) regarding the method used by the Kenya National Bureau of Statistics (KNBS) in Turkana County and specifically Loima Constituency during the 2019 National Population and Housing Census exercise.

(To be replied by the Cabinet Secretary for National Treasury and National Planning before the Departmental Committee on Finance and National Planning)

- (iii) **Question No. 112/2020** by the Member for Tigania West (Hon. (Dr.) John Kanyuithia Mutunga, M.P.) concerning inordinate delays in the construction of Miathane - Mikinduri Road in Tigania West Constituency.

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

- (iv) **Question No.135/2020** by the Member for Kisii County (Hon. Janet Ongera, MP) regarding gender-based violence cases in Kisii County.

(Deferred to the next Sitting)

- (v) **Question No. 149/2020** by the Member for Kirinyaga Central (Hon. John Munene Wambugu, M.P.) regarding continuous violation of axle load limits by Heavy Goods Vehicles in the Country.

(To be replied by the Cabinet Secretary for National Treasury and National Planning before the Departmental Committee on Finance and National Planning)

- (vi) **Question No. 150/2020** by the Member for Nakuru Town West (Hon. Samuel Arama, M.P.) regarding compensation of victims following flooding of Lake Nakuru National Park situated in Nakuru Town West Constituency.

(To be replied by the Cabinet Secretary for Environment and Forestry before the Departmental Committee on Environment and Natural Resources)

- (vii) **Question No. 151/2020** by the Member for Rabai (Hon. Kamoti Mwamkale, M.P.) regarding shortage of teachers being experienced in the registered secondary schools in Rabai Constituency.

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

9. STATEMENTS

(a) Requests for Statements

The Member for Mandera East (Hon. Hassan Omar Mohamed Maalim, MP) requested for a Statement regarding presence of foreign soldiers in Barwako location, Mandera East Constituency.

(b) Responses to Statements

The Chairperson of the Committee on Implementation, the Hon. Richard Ole Kenta, MP, responded to the Statement requested by the Member for Kamukunji, the Hon. Yussuf Hassan, MP, regarding the ban of importation of second hand clothes in the country.

(Statement was referred to the Departmental Committee on Trade, Industry and Cooperatives)

10. PROCEDURAL MOTION – EXEMPTION OF BUSINESS FROM PROVISIONS OF THE STANDING ORDERS

Motion made and Question proposed;

THAT, pursuant to the provision of Standing Order 256 relating to Exemption of business from Standing Orders, this House orders that the Report of the Departmental Committee on Lands on a Petition on the alleged invasion of LR 5875/2 in Roysambu Constituency by the Kenya Defence Forces, laid on the Table of the House on Thursday, July 2, 2020 be exempted from the provisions of Standing Order 227 (2) (Committal of Petitions) to allow the House to consider the Report of the Departmental Committee on Lands on the Petition.

(Chairperson, Departmental Committee on Lands)

There being no debate arising;

Question put and agreed to.

11. MOTION – AUDITED FINANCIAL STATEMENTS OF THE COMMODITIES FUND FOR FY 2015/2016 & 2016/2017

Motion made and Question proposed;

THAT, this House adopts the Report of the Special Funds Accounts Committee on its consideration of Audited Financial Statements for the Commodities Fund for the years ended 30th June, 2016 and 30th June, 2017, laid on the Table of the House on Tuesday, October 29, 2019.

(Chairperson, Chairperson, Special Funds Accounts Committee)

Debate on the Motion having been concluded on 30.07.2020;

Question put and agreed to.

12. MOTION- INQUIRY INTO ENCROACHMENT OF THE RIPARIAN AREAS IN KENYA

Motion made and Question proposed;

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on its Inquiry into the Encroachment of the

Riparian Areas in Kenya, laid on the Table of the House on Thursday, September 19, 2019.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Debate on the Motion having been concluded on 30.07.2020;

Question put and agreed to.

13. THE PARLIAMENTARY PENSIONS (AMENDMENT) (No. 3) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2019)

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Parliamentary Pensions (Amendment) (No. 3) Bill (National Assembly Bill (No. 57 Of 2019) be now read a Second Time.

(The Hon. Andrew Mwadime, M.P.)

Debate arising;

(Change of Chair from the Deputy Speaker to the Third Chairperson)

Rising in his place on a point of order pursuant to Standing Order 95, the Member for Wajir North (Hon. Ahmed Abdisalan Ibrahim, M.P.) claimed that “the Mover be now called upon to reply”

And the Third Chairperson acceding to the claim;

Question put and negatived;

Debate interrupted resumed;

(Change of Chair from the Third Chairperson to the Second Chairperson)

Rising in his place on a point of order pursuant to Standing Order 95, the Member for Kinangop (Hon. Zachary Kwenya Thuku, M.P.) claimed that “the Mover be now called upon to reply”

And the Second Chairperson acceding to the claim;

Question put and negatived;

Debate interrupted resumed;

Mover replied;

Question for Second Reading deferred to another day.

14. MOTION – AUDITED FINANCIAL STATEMENTS FOR STATE CORPORATIONS

Motion made and Question proposed;

THAT, this House adopts the Twenty Third Report of the Public Investment Committee on its consideration of the Auditor General's Reports on Financial Statements of State Corporations, laid on the Table of the House on Thursday, July 02, 2020.

(Chairperson, Public Investments Committee)

Debate arising;

And the time being Seven O'clock, the Second Chairperson of Committees interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

15. **HOUSE ROSE** - at Seven O'clock.

MEMORANDUM

The Speaker will take the Chair on
Wednesday, August 12, 2020 at 10.00 a.m.

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