



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, DECEMBER 22, 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. **ADMINISTRATION OF OATH**

The Speaker administered Oath of Office to the Member-elect for Msambweni Constituency –

SALIM, FEISAL ABDALLA BADER

5. **PETITION**

The Member for Lunga Lunga (Hon. Khatib Abdalla Mwashetani) presented a Petition regarding Repossession of Diani Beach Complex Land.

Petition referred to the relevant Departmental Committee pursuant to Standing Order 227(2)

6. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) Legal Notice No. 207 of 2020 relating to the Income Tax (Digital Service Tax) Regulations, 2020 from the National Treasury;
- (ii) The Draft Breast Milk Substitutes (Regulation and Control) (General) Regulations, 2020 from the Ministry of Health;
- (iii) Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30th June, 2019 and the certificates therein: -
 - a) The State Department for Regional and Northern Corridor Development;
 - b) The State Department for Social Protection;
 - c) The State Department for Youth; and
 - d) The State Department for Public Service and Youth

(The Leader of the Majority Party)

7. **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, during the Special Sitzings of the House of December 22, 2020 (Afternoon), each speech in debate on Bills, Motions and Committee Reports, shall be limited as follows:- a maximum of one and half hours with not more than fifteen (15) 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.

(The Leader of the Majority Party)

There being no debate arising;

Question put and agreed to.

8. **PROCEDURAL MOTION- EXTENSION OF SITTING TIME UNTIL CONCLUSION OF SPECIFIED BUSINESS**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 30(3) (a), this House orders that should the time appointed for adjournment of the House be reached before conclusion of the business on today's Order Paper, the sitting of the House shall stand extended until the conclusion of the said business.

(The Leader of the Majority Party)

There being no debate arising;

Question put and agreed to.

9. **THE TAX LAWS (AMENDMENT) (No. 2) BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2020)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Tax Laws (Amendment) Bill (National Assembly Bill No.48 of 2020) be now read a Second Time.

*(The Chairperson, Departmental Committee on Finance & National Planning –
22.12.2020)*

Debate having been interrupted on Tuesday, December 22, 2020 (Morning Sitting) resumed;

Rising in his place on a point of order pursuant to Standing Order 95, the Member for Endebs (Hon. Robert Pukose) claimed to move “that the Mover be now called upon to Reply”;

And the Speaker having acceded to the claim;

Thereupon, question put and agreed to;

Mover replied;

Question put and agreed to.

10. **MOTION – CONSIDERATION OF THE VALUE ADDED TAX (AMENDMENT OF THE RATE OF TAX) ORDER, 2020**

Motion made and Question proposed –

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Value Added Tax (Amendment of the Rate of Tax) Order, 2020, laid on the Table of the House on Tuesday, December 22, 2020, and pursuant to the provisions of sections 6 and 67 of the Value Added Tax Act, 2013 *approves the* Value Added Tax (Amendment of the Rate of Tax) Order, 2020 published as Legal Notice No. 206 of 2020.

(The Chairperson, Committee on Delegated Legislation)

Debate arising;

Rising in his place on a point of order pursuant to Standing Order 95, the Member for Endebs (Hon. Robert Pukose) claimed to move “that the Mover be now called upon to Reply”;

And the Speaker having acceded to the claim;

Thereupon, question put and agreed to;

Mover replied;

Question put and agreed to.

11. **THE ANTI-DOPING (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 51 OF 2020)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Anti- Doping (Amendment) Bill (National Assembly Bill No.51 of 2020) be now read a Second Time.

(The Leader of the Majority Party)

Debate arising;

Rising in his place on a point of order pursuant to Standing Order 95, the Member for Baringo Central (Hon. Joshua Kandie) claimed to move “that the Mover be now called upon to Reply”;

And the Speaker having acceded to the claim;

Thereupon, question put and agreed to;

Mover replied;

Question put and agreed to.

12. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Second Chairperson in the Chair

a) The Tax Laws (Amendment) (No. 2) Bill (National Bill No.48 of 2020)

SCHEDULE

Provisions relating to the Income Tax Act (Cap. 470)

Section 12 D - amendment proposed

- (i) **THAT**, the Schedule be amended in the provisions relating to the Income Tax Act Cap. 470 by deleting the proposed amendment to section 12D and substituting therefor the following new amendment—

s. 12D Delete.

(Hon. John Muchiri)

Proposed amendment dropped;

- (ii) **THAT**, the Schedule to the Bill be amended in the proposed amendments to the Income Tax Act (CAP. 470) —

- (a) by inserting the following new amendment immediately after the proposed amendment to section 12 (D) (1) (c)—

s. 12D(1) Insert the following new paragraph immediately after paragraph (c)—

(d) that person is engaged in business whose retail price is controlled by the Government;

(e) that person is engaged in insurance business.

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to.

(iii) **THAT**, the Schedule be amended in the provisions relating to the Income Tax Act (Cap.470) by —

(a) inserting the following new amendment immediately after the proposed amendment to section 12D (1) (c) —

s. 12D(1) Insert the following new paragraphs immediately after paragraph (c)—

(d) that person's business has suffered loss in the last three years from the date of coming into force of this section; and

(e) that person's business suffers loss in the next three years from the date of coming into force of this section.

(Hon. Kimani Ichung'wah)

Proposed amendment withdrawn by the Mover;

(iv) **THAT**, the Schedule to the Bill be amended in the provisions relating to the Income Tax Act (Cap. 470) by inserting the following new amendment immediately after the proposed amendments to section 12D (1) —

s. 12D Insert the following new subsection immediately after subsection (2) —

(3) Notwithstanding the provisions of the Finance Act, 2020 this section shall come into force on 1st January, 2023.

(Hon. T. J. Kajwang')

Proposed amendment withdrawn by the Mover;

Section 12D - as amended agreed to;

Section 12 (1) - amendment proposed

THAT, the Schedule to the Bill be amended by inserting the following new amendments in the provisions relating to the Income Tax Act—

s. 12 (1) Delete paragraph (a).

(Hon. John Muchiri)

Proposed amendment dropped;

Section 34 (1) - amendment proposed

THAT, the Schedule to the Bill be amended by inserting the following new amendments in the provisions relating to the Income Tax Act—

s. 34 (1) Delete paragraph (n).

(Hon. John Muchiri)

Proposed amendment dropped;

Third Schedule Head B;

Item 1 and 1A - amendment proposed

(i) by deleting the proposed amendments in Item 1 and Item 1A of Head B (Rates of Tax) of the Third Schedule and substituting therefor the following new items—

1. The individual rates of tax shall be –

	Rate in each shilling
On the first Shs. 288,000	10%
On the next shs 100,000	25%
Above shs 388,000	30%

1A. The wife’s employment, wife’s professional and wife’s self-employment income rates of tax shall be –

	Rate in each shilling
On the first Shs. 288,000	10%
On the next shs 100,000	25%
Above shs 388,000	30%

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Items 1 and 1A - as amended agreed to;

Item 2 (a) - amendment proposed

THAT, the Schedule to the Bill be amended by inserting the following new amendments in the provisions relating to the Income Tax Act—

- (i) in the proposed amendments to item 2(a) by deleting the proposed proviso to paragraph (viii);

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

- (ii) deleting the proviso to paragraph (ix) in Item 2 (a) of Head B of the Third Schedule and substituting therefor the following new proviso-

Provided that this provision shall apply to the income earned from the 1st July, 2021.

(Hon. Kimani Ichung'wah)

Proposed amendment withdrawn by the Mover;

Item 2 (a) - as amended agreed to;

Item 5 (d) (i) - agreed to

Item 5 (d) (ii) - amendment proposed

THAT, the Schedule to the Bill be amended by deleting the proposed amendments to Item 5(d) (ii) and substituting therefor the following new Item 5(d) (ii)-

Delete the tabulation of rates and income bands and substitute therefore the following new rates and income bands —

Rate in each shilling

On the first Shs. 288,000	10%
On the next shs 100,000	25%
Above shs 388,000	30%

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Item 5 (d) (ii) - as amended agreed to;

Item 5 (d) (iii) - amendment proposed

THAT, the Schedule to the Bill be amended by inserting the following new amendment immediately after the proposed amendment to Item 5 (d) (ii) —

Item 5 (d) (iii) Delete the words “twenty-five percent” and substitute therefor the words “thirty percent”

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question on the amendment put and agreed to;

Item 5 (d) (iii) - as amended agreed to;

Paragraph 11 - amendment proposed

THAT, the Schedule to the Bill be amended by inserting the following new amendments in the provisions relating to the Income Tax Act—

Third Schedule Head B Delete paragraph 11.

(Hon. John Muchiri)

Proposed amendment dropped;

(b) Provisions relating to the Value Added Tax Act, 2013 (No. 35 of 2013)

Section 17 - amendment proposed

THAT, the Schedule be amended by deleting the proposed amendment to section 17 of the Value Added Tax Act, 2013

(Hon. John Kiarie)

Proposed amendment withdrawn by the Mover;

Section 17 - agreed to;

Clause 2 - agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments.

b) **Consideration of the Anti-Doping (Amendment) Bill (National Assembly Bill No. 51 of 2020)**

Clauses 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 - agreed to

Clause 2 - agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported without amendments.

13. **HOUSE RESUMED** - the Fourth Chairperson in the Chair

(i) The Tax Laws (Amendment) (No. 2) Bill (National Bill No.48 of 2020)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report.

(Chairperson, Departmental Committee on Finance & National Planning)

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the Tax Laws (Amendment) (No. 2) Bill (National Assembly Bill No. 48 of 2020) be now read a Third Time.

(Chairperson, Departmental Committee on Finance and National Planning)

Debate arising;

Question put and agreed to.

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

(ii) Consideration of the Anti-Doping (Amendment) Bill (National Assembly Bill No. 51 of 2020)

Bill reported without amendments.

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report.

(The Leader of the Majority Party)

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the Anti-Doping (Amendment) Bill (National Assembly Bill No. 51 of 2020) be now read a Third Time.

(The Leader of the Majority Party)

Question put and agreed to;

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

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

14. **HOUSE ROSE** - at five O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, February 9, 2021 at 2.30 p.m.