

Twelfth Parliament



**Fifth Session  
Afternoon  
Sitting  
(1510)**

(No.087)

**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FIFTH SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, SEPTEMBER 21, 2021 (AFTERNOON SITTING)**

1. The House assembled at Thirty Minutes past Two O'clock in the afternoon
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **COMMUNICATION FROM THE CHAIR**

The following Communication was issued by the Speaker-

**CONGRATULATORY MESSAGE TO THE HON. DENNITAH GHATI ON HER ELECTION AS CHAIRPERSON OF THE COMMONWEALTH PARLIAMENTARIANS WITH DISABILITIES (CPwD)**

**“Honourable Members,**

I take this opportunity to welcome you back after the long recess. Despite the fact that Committees continued to operate during the recess period and you also continued to carry out your roles as a representative of your people, it is my hope that you have also found some time to rest and refresh as this last part of the Session is likely to be quite busy.

**Honourable Members,** during the recess period, the National Assembly continued engaging in parliamentary diplomacy and its usual inter-parliamentary affairs at regional and international level. In this regard, I am glad to notify the House that **the Hon. Dennitah Ghati, MP** was elected as the Chairperson of the Commonwealth Parliamentarians with Disabilities (CPwD) Network.

**Honourable Members,** the Commonwealth Parliamentarians with Disabilities Network is a forum within the wider Commonwealth Parliamentary Association, which facilitates

activities and programmes to champion and increase representation of persons with disabilities in Commonwealth Parliaments. It also works towards the mainstreaming of disability considerations in all CPA activities and programmes. The Network supports elected representatives with disabilities in Parliaments and legislatures across the Commonwealth and ensures that issues of persons with disabilities are brought to the fore in parliamentary debate and legislation.

**Honourable Members**, the Hon. Dennitah Ghati, MP succeeds the first CPwD Chairperson, Hon. Kevin Murphy, the Speaker of the Nova Scotia House of Assembly in Canada. Following her appointment, Hon. Ghati, MP will lead the Network's engagement with the Commonwealth Parliamentary Association Executive Committee and the Commonwealth Parliamentary Association Headquarters Secretariat and liaise with Commonwealth Parliaments on behalf of the Network.

**Honourable Members**, On behalf of all Members and staff of the National Assembly and indeed on my own behalf, I take this opportunity to congratulate **Hon. Dennitah Ghati, MP** following her election and wish her the best as she takes up her new role.

On my part as the Chairperson of the Executive Committee of the Commonwealth Parliamentary Association (Africa Region), I reassure her of my commitment to supporting her and the activities of her new office, including the proposed Conference on Commonwealth Parliamentarians with Disability (Africa Region) which is scheduled to take place in Nairobi before the end of the year.

**I thank you."**

5. **PETITIONS**

The following Petitions were presented:-

- a) By the Member for Matungulu Constituency (Hon. Stephen Mule Mutinda, MP) regarding review of abnormal increments in prices of petroleum and petroleum products, and
- b) **Petition to amend the Finance Act, 2018 in order to address drastic increases in prices of petroleum and petroleum products**

**"Honourable Members**, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition, other than those presented by a Member. Further, Article

119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation.

In this regard, **Honourable Members**, I wish to report to the House that my office has received a Petition from Mr. Antony Manyara and Mr. John Wangai of P. O. Box 17586 Nairobi, calling for ***“urgent repeal of Section 13 of the Finance Act, 2018 in order to address drastic increase in prices of petroleum and petroleum products through abolition of the currently prescribed 8% Value Added Tax.”***

In their petition, **Honourable Members**, the petitioners decry passage of section 13 of the Finance Act, 2018 which amended section 5(2) of the Value Added Tax, 2013 that introduced a Value Added Tax of 8% on petroleum and petroleum products which had previously been tax exempt. This taxation rate was pegged at the taxable value of petroleum and petroleum products exclusive of excise duty, fees and other charges. The Petitioners aver that all taxpayers and consumers of petroleum and petroleum products have been adversely impacted by the law which they term as draconian.

**Honourable Members**, The Petitioners seek the intervention of this House to consider repealing Section 13 of the Finance Act, 2018 in order to address the sharp increase in prices of petroleum and petroleum products through abolition of the currently prescribed 8% Value Added Tax. This is in view of its overarching and substantial impact on taxpayers and consumers of the said products, which they have listed as petroleum oils, oils from bituminous minerals, motor vehicle fuel, spirits, kerosene-based jet fuel, illuminating kerosene, and natural gas in gaseous state.

**Honourable Members**, this is a matter that squarely and exclusively falls within the authority and mandate of the National Assembly as espoused in at least five provisions of the Constitution, the first of which is Article 95(2) provides that, and I quote:-

*“The National Assembly deliberates on and resolves issues of concern to the people.”*

Secondly, Article 119(1) which states, and I quote:-

*“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”*

Further, Article 114(3)(a) mandates the National Assembly to enact laws pertaining to taxation, while Article 210(1) provides that, and I quote:-

*“No tax or licensing fee may be imposed, waived or varied except as provided by legislation.”*

Finally, as indeed observed by the Petitioners both in their submissions as well as in their Prayer, the legislative authority of the Republic, which is derived from the people, is exercised at the national level by Parliament in line with Article 94(1) of the Constitution.

**Honourable Members**, you will agree with me that this is a current matter which is of great concern to the people. Indeed, in addition to this Petition as well as a similar

Petition by the Member for Matungulu, the Hon. Stephen Mule Mutinda, MP, I have received requests for Adjournment Motions from the Member for Dagoretti North, Hon. Simba Arati, MP and Nominated Member, the Hon. Wilson Sossion, MP seeking adjournment of the House so as to deliberate on this very issue. I have determined that the best avenue for resolving the issue at hand is not a Motion under Standing Order 33, but rather legislation, and it is on the same basis that I declined to approve Statements and Questions from several other Members on the matter.

**Honourable Members**, pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committee on Finance and National Planning for consideration. In addressing the concerns and prayers of the Petitioners, the Committee shall be expected to:-

- 1) table its report within Fourteen (14) days in view of the urgency of the matter and in consideration of the effects it has on the populace, notwithstanding the sixty days period under Standing Order 227;
- 2) attach a draft Bill to the Report, for my approval for publication, proposing legislative interventions as sought by the Petitioners, and;
- 3) undertake general and targeted inquiry to confirm whether there exists other reasons, beyond taxation leading to the drastic rise in the cost of petroleum and petroleum products with a view to proposing administrative and legislative measures for addressing those causes.

**Honourable Members**, although the Hon. Stephen Mule requests that his Petition be referred to the Departmental Committee on Energy, you will all agree that the solution to the matter at hand lies in addressing taxation and related measures, and therefore it is only prudent that we consolidate the efforts therein in one organ of this House. Subsequently, the Petition by Hon. Stephen Mule, MP will also be considered by the Departmental Committee on Finance and National Planning.

Finally, pursuant to the provisions of Standing Order 195(1), Members of the Departmental Committee on Energy and indeed any other Member of this House are at liberty to attend the sittings of the Departmental Committee on Finance and National Planning and make their submissions on the matter.

**I thank you!"**

## 6. PAPERS

The following papers were laid on the Table of the House:-

- i) Legal Notice No. 7 of 2021 relating to the National Youth Council (Election Council Members) Regulations, 2021 and the Explanatory Memorandum from the Ministry

- of ICT, Innovation & Youth Affairs *(to be referred to Committee on Delegated Legislation)*
- ii) Sessional Paper No. 3 of 2021 on National Action Plan on Business and Human Rights from the Office of the Attorney – General & Department of Justice; *(to be referred to Departmental Committee on Justice & Legal Affairs)*.
  - iii) Performance Report for the period July to December 2020 from the Independent Policing Oversight Authority (IPOA).
  - iv) The 2020/2021 Annual Report to Parliament on the Constitutional requirement under Article 153 of the Constitution from the Ministry of East African Community and Regional Development.
  - v) The Report of the Cabinet Secretary to the National Assembly on Achievements and Progress in the Financial Year 2020/2021 from the Ministry of Lands and Physical Planning.
  - vi) 2021 Annual Status Report on Water, Sanitation & Irrigation from the Ministry of Water, Sanitation & Irrigation.
  - vii) The Annual Report to Parliament for the Financial Year 2020/2021 from the Ministry of Interior and Co-ordination of National Government.
  - viii) The Second Quarterly Report of the Ethics and Anti-Corruption Commission covering the period from 1<sup>st</sup> April to 30<sup>th</sup> June, 2021.
  - ix) Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June, 2019 and the certificates therein: -
    - a) Kenya Rural Roads Authority;
    - b) Tana and Athi Rivers Development Authority;
    - c) Godoma Technical Training Institute;
    - d) Jeremiah Nyagah Technical Institute; and
    - e) Lands Limited.

*(Leader of the Majority Party)*

- x) Reports of the Select Committee on Delegated Legislation on its consideration of: -
  - a) The Public Finance Management (Biashara Kenya Fund) Regulations, 2021(Legal Notice No.55 of 2021);
  - b) The Public Finance Management (Uwezo Fund) (Revocation) Regulations,2021(Legal Notice No. 56 of 2021);
  - c) The Public Finance Management (Women Enterprise Fund (Revocation) Regulations, 2021 (Legal Notice No. 57 of 2021);
  - d) The Public Finance Management (Youth Enterprise Development Fund (Revocation) Regulations, 2021(Legal Notice No. 58 of 2021); and
  - e) The Public Finance Management (Sinking Fund) Guidelines, 2021 (Gazette Notice No. 5085 of 2021).

*(Chairperson, Committee on Delegated Legislation)*

## 7. **NOTICE OF MOTION**

The following Notices of Motion were given-

**(i) Adoption of the Report of the Committee on Delegated Legislation on its consideration of four Regulations**

**THAT**, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Biashara Kenya Fund) Regulations, 2021; Public Finance Management (Uwezo Fund)(Revocation) Regulations, 2021; Public Finance Management (Women Enterprise Fund) (Revocation) Regulations, 2021;and Public Finance Management (Youth Enterprise Development) (Revocation) Regulations, 2021, *laid on the Table of the House on Tuesday, 21<sup>st</sup> September 2021*, and pursuant to the provisions of section 205(4) of the Public Finance Management Act, 2012, **annuls**:

- a) the Public Finance Management (Biashara Kenya Fund) Regulations, 2021 published as Legal Notice No. 55 of 2021;
- b) the Public Finance Management (Uwezo Fund)(Revocation) Regulations, 2021 published as Legal Notice No. 56 of 2021;
- c) the Public Finance Management (Women Enterprise Fund) (Revocation) Regulations, 2021 published as Legal Notice No. 57 of 2021;and
- d) the Public Finance Management (Youth Enterprise Development) (Revocation) Regulations, 2021 published as Legal Notice No. 58 of 2021

*(Chairperson, Committee on Delegated Legislation)*

**(ii) Adoption of the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Sinking Fund) Guidelines, 2021**

**THAT**, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Sinking Fund) Guidelines, 2021, *laid on the Table of the House on Tuesday, 21<sup>st</sup> September 2021*, and pursuant to the provisions of section 205(4) of the Public Finance Management Act, 2012, **annuls** the Public Finance Management (Sinking Fund) Guidelines, 2021 published as Gazette Notice No. 5085 of 2021.

*(Chairperson, Committee on Delegated Legislation)*

**8. QUESTIONS**

(a) The following Questions were asked –

- (i) Question No.346/2021 by the Member for Nyandarua County (Hon. Faith Gitau, MP) regarding hippopotamus menace at lake Olbolosat in Nyandarua County.

*(To be replied to by the Cabinet Secretary for Tourism and Wildlife before the Departmental Committee on Environment and Natural Resources)*

- (ii) Question No.349/2021 by the Member for Nandi County (Hon. Tecla Tum, MP) regarding retirement status of lecturers holding Doctorates of Philosophy Degrees (PhDs) *(asked on the Member's behalf by Hon. Halima Mucheke, MP)*

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

- (iii) Question No.350/2021 by the Member for Central Imenti (Hon. Moses Kirima Nguchine, MP) regarding demarcation of boundaries between Meru and Tharaka Nithi Counties.

*(To be replied to by the Cabinet Secretary for Lands and Physical Planning before the Departmental Committee on Lands)*

(b) The following Questions were deferred upon request by the respective Members –

- (i) Question No.343/2021 by the Member for Lamu West Constituency (Hon. Stanley Muthama, MP) regarding effects of famine in Lamu West Constituency.
- (ii) Question No.344/2021 by the Member for Laikipia County (Hon. Catherine Waruguru, MP) regarding updating of the Inua Jamii Cash Transfer Programme.

9. **MOTION – SESSIONAL PAPER NO. 4 OF 2020 ON THE NATIONAL CO-OPERATIVE POLICY**

Motion made and Question proposed:-

**THAT**, this House **adopts** the Report of the Departmental Committee on Trade, Industry and Co-operatives on **Sessional Paper No. 4 of 2020** on the **National Co-operative Policy on promoting co-operatives for Socio-economic Transformation laid on the Table of the House on Thursday, August 19, 2021**, and **further approves** Sessional Paper No. 04 of 2020.

*(Chairperson, Departmental Committee on Trade, Industry and Co-operatives)*

Change of Chair from the Honourable Speaker to the Fourth Chairperson.

Debate arising:

Debate concluded;

Mover replied;

Question deferred.

10. **THE HEALTH LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2021)**

(The Leader of the Majority Party)

Order deferred.

11. **THE SOCIAL ASSISTANCE (REPEAL) BILL (NATIONAL ASSEMBLY BILL NO. 16 OF 2020)**

Motion made and Question proposed:-

THAT, The Social Assistance (Repeal) Bill (National Assembly bill No. 16 of 2020) be now read a second time.

*(The Leader of the Majority Party)*

Debate arising:

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

12. **HOUSE ROSE** - at thirty minutes past Six O'clock

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

The Speaker will take the Chair on-  
Wednesday, September 22, 2021 at 9.30am

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