



(No. 101)

(1255)

REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FIFTH SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

WEDNESDAY, OCTOBER 13, 2021 AT 9.30 A.M.

ORDER OF BUSINESS

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Questions and Statements

8*. COMMITTEE OF THE WHOLE HOUSE

The Sugar Bill (National Assembly Bill No. 68 of 2019)
(The Hon. Wafula Wamunyinyi, M.P.)

(To resume from New Clauses)

9*. THE EMPLOYMENT (AMENDMENT)(No.2) BILL (NATIONAL ASSEMBLY BILL NO. 79 OF 2019)

(The Hon. Gideon Keter, M.P.)

Second Reading

(Resumption of debate interrupted on Wednesday, September 29, 2021 – Morning sitting)
(Balance of time – 35 minutes)

...../10*

10* . THE PENSIONS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2020)

(The Hon. Didmus Barasa, M.P.)

Second Reading

11* . THE COMMUNITY HEALTH WORKERS BILL (NATIONAL ASSEMBLY BILL NO. 30 OF 2020)

(The Hon. Martin Peters Owino, M.P.)

Second Reading

12* . THE INFORMATION COMMUNICATION TECHNOLOGY PRACTITIONERS BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2020)

(The Hon. Godfrey Osotsi, M.P.)

Second Reading

13* . THE NATIONAL CONSTRUCTION AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2020)

(The Hon. David Gikaria, M.P.)

Second Reading

14* . THE PHARMACY AND POISONS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2021)

(The Hon. Alfred Keter, M.P.)

Second Reading

15* . THE COMPUTER MISUSE AND CYBERCRIMES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2021)

(The Hon. Aden Duale, M.P.)

Second Reading

16* . THE HEALTH (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2021)

(The Hon. Mwambu Mabongah, M.P.)

Second Reading

17* . THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 16 OF 2019)

(The Hon. (Dr.) Makali Mulu, M.P.)

Second Reading

18* . THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 36 OF 2019)

(The Hon. Rigathi Gachagua, M.P.)

Second Reading

19* . THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2019)

(The Hon. Alexander Kosgey, M.P.)

Second Reading

20* . THE ANTI-CORRUPTION AND ECONOMIC CRIMES (AMENDMENT) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 72 OF 2019)

(The Hon. Silas Tiren, M.P.)

Second Reading

21* . THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO.4) BILL (NATIONAL ASSEMBLY BILL NO. 78 OF 2019)

(The Hon. Samuel Atandi, M.P.)

Second Reading

*** Denotes Orders of the Day**

NOTICES

I. THE SUGAR BILL (NATIONAL ASSEMBLY BILL NO. 68 OF 2019)

- 1) Notice is given that the Chairperson of the Departmental Committee on Agriculture and Livestock intends to move the following amendments to the Sugar Bill, 2019 at the Committee Stage—

(Part of the amendments arose from the winnowing process under S.O. 131)

CLAUSE 2

THAT, the Bill be amended by deleting clause 2 and substituting therefor the following new clause—

Interpretation.

2. In this Act unless the context otherwise requires—

“agreements” means the agreements specifying the standard provisions governing the rights and obligations of growers, millers and out-grower institutions in the sugar industry;

“Board” means the Kenya Sugar Board established under section 3;

“by-product” means any substance, other than sugar, produced incidentally during the process of manufacturing sugar;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to agriculture;

“County Executive Committee Member” means the County Executive Member for the time being responsible for matters relating to agriculture in the respective County;

“farm gate” means prices received by farmers for their sugarcane at the location of farm;

“Fund” means the Sugar Development Fund established under section 19;

“guidelines” means the guidelines for agreements between parties in the sugar industry set out in the Second Schedule;

“grower” means a person who produces sugar-cane or any crop in Kenya for the manufacture of sugar;

“industry” means the sugar industry in Kenya and includes the growing of sugar-cane and any other sugar producing crop, the manufacturing, refining, warehousing, marketing, transportation of sugar and disposal of sugar and its by-products;

“Institute” means the Kenya Sugar Research Institute established under section 16A;

“licence” means a licence issued by the Board to a miller;

“member” means a member of the Board appointed under section 5;

“mill gate” means a site where sugarcane varieties are grown under strictly controlled agronomic conditions for eventual establishment of the sugarcane crop;

“miller” means a person licensed to operate a sugar mill or a jiggery mill in Kenya for the production of sugar including refined sugar and other by-products;

“outgrower” means a person who has a sugarcane farm in a catchment area and who has in force a cane supply contract in respect of the sugar-cane grown on such farm and registered by the Board;

“refined sugar” means sugar, which complies with the specifications set by the body for the time responsible for setting standards;

“sugar” means crystalline or liquid sucrose in any of its recognized commercial forms, intended for human consumption or other uses and includes raw sugar and industrial sugar;

“sugar-cane” means any plant or part of a plant of the genus *saccharum* or any of its hybrid;

“sugar catchment area” means a specific geographical area where farmers are clustered within a suitable sugar catchment area for purposes of election to the Board under the First Schedule;

“sugarcane growers apex body” means a national sugarcane farmers and out grower organisation under a cane supply contract and in catchment areas under the Fourth Schedule gazetted as such by the Cabinet Secretary for the time being responsible for agriculture;

“stakeholder” means a person with significant interest in the sugar industry and includes government, millers, growers and out-grower institutions;

“Tribunal” means the Sugar Arbitration Tribunal established under section 24A;

CLAUSE 4

THAT, Clause 4 of the Bill be amended in in subclause (2) by inserting the following new paragraphs immediately after paragraph (m)—

(ma) enforce and monitor compliance with standards along the sugar value chain;

(mb) facilitate value addition and product diversification in the sugar sub-sector;

(mc) formulate and implement a strategic plan for the sugar sub-sector at least once every five years;

(md) formulate guidelines on an efficient and economical transportation of sugar;

- (me) conduct local and international sugar market intelligence and advise stakeholders accordingly;
- (mf) establish linkages with various government agencies and research institutions to enhance quality assurance and research;

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 4—

Functions of county governments.

4A. The County Government shall—

- (a) issue sugar cane nursery certificates;
- (b) offer and coordinate extension services on sugar production and milling in the respective county;
- (c) in collaboration with the Board and law enforcement agencies, enforce regulations within the county;
- (d) monitor and report incidences of pests and disease outbreaks and take appropriate action in collaboration with the Board and other relevant government agencies; and
- (e) establish an efficient road network for the movement of sugarcane, delivery of other services and general development of the sugar industry.

CLAUSE 5

THAT, clause 5 of the Bill be amended—

(a) in sub-clause (1) by—

- (i) deleting paragraph (b) and substituting therefor the following new paragraph—
“(b) five representatives elected by growers from each sugar catchment area as per the First Schedule”
- (ii) deleting paragraph (c) and substituting therefor the following new paragraph—
“(c) one representative elected by sugar millers who is knowledgeable in sugar technology and value addition;”
- (iii) deleting paragraph (d) and substituting therefor the following new paragraph—
“(d) the Principal Secretary in the Ministry for the time being responsible for matters relating to agriculture or a representative nominated by the Principal Secretary in writing;”

- (iv) deleting paragraph (e) and substituting therefor the following new paragraph—
 “(e) one person nominated by the Council of County Governors who is knowledgeable in extension services and management of farmer institutions;”
- (v) deleting paragraph (f) and substituting therefor the following new paragraph—
 “(f) the Principal Secretary for the time being responsible for National Treasury or a representative nominated by the Principal Secretary in writing;”
- (b) by deleting subclause (2);
- (c) by inserting the following new subclauses immediately after subclause (3)—
 “(4) The members under subsection (1) (b), (c) and (e) shall be appointed by the Cabinet by notice in the *Gazette*.
- (5) A person shall not be appointed as a chairperson of the Board of Directors unless the person holds at least a degree or its equivalent in any discipline from an institution recognized in Kenya and has relevant experience in the sugar sector.”
- (d) by deleting subclause (3);

NEW CLAUSES

THAT, the Bill be amended by inserting the following new clauses immediately after clause 5—

Term of appointment of **5A.** (1) A person appointed as chairperson or a member of the Board under section 5(1) (b), (c) and (e) shall serve for a term of three years renewable for one further term.

(2) Members of the Board under section 5(1)(b), (c) and (e) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times.

Vacation of office. of **5B.** A person shall cease to be a member of the Board of if the person—

(a) is absent from three consecutive meetings of the Board without notifying the chairperson in writing;

(b) becomes an officer, agent or member of staff of the Board;

(c) resigns in writing addressed to the Cabinet Secretary;

(d) is convicted of a criminal offence and sentenced to a term of imprisonment of exceeding six months without the option of a fine;

(e) is declared bankrupt;

(f) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or

(g) dies.

NEW CLAUSE

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

Committees of the Board.

7A. (1) The Board may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

(2) The Board may co-opt to sit in the committees established under subsection (1), such other persons whose knowledge and skills are necessary for the performance of the functions of the Board.

CLAUSE 10

THAT, clause 10 be amended by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person shall be qualified for appointment under this section if the person—

- (a) holds a relevant degree from a university recognized in Kenya;
- (b) has at least ten years knowledge and experience from a relevant field;
- (c) has at least five years’ experience in a position of senior management; and
- (d) meets the provision of chapter six of the Constitution.”

CLAUSE 14

THAT, clause 14 be amended—

- (a) in subclause (1) by inserting the words “upon recommendation by the relevant County Government” immediately after the word “Board”;
- (b) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person who contravenes the provisions of subsection (1) or acts in contravention of the conditions of a licence granted under this Act commits an offence and shall be liable on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or to a fine not exceeding ten million shillings, whichever is the higher, or to imprisonment for a term not exceeding five years, or to both.”

CLAUSE 15

THAT, clause 15 of the Bill be amended—

- (a) by renumbering the subclauses appearing after subclause (2) as (3), (4), (5), (6), and (7);
- (b) by inserting a new subclause immediately after the renumbered subclause (7) as follows:

“(8) A person shall not import or export sugar without a valid licence issued by the Board.”

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clauses immediately after clause 15—

Sugar Import.

15A. (1) A person who imports sugar into Kenya shall, prior to importation —

- (a) provide evidence that the sugar they intend to import is not available in the local market;
- (b) provide a sample of the sugar to be imported and pre-import verification certificate from the country of origin; and
- (c) obtain pre-import approval from the Board.

(2) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.

Industrial sugar.

15B. (1) A licenced sugar miller shall be licenced by the board to carry out the business of processing industrial sugar.

(2) The Board shall regulate the processing of industrial sugar.

CLAUSE 16

THAT, Clause 16 of the Bill be amended by—

- (a) deleting sub clause (2);
- (b) inserting the following new sub clause immediately after sub clause (4) —
“(4B) In issuing certificates of registration under subsection(3), the Board shall satisfy itself that the premises upon which milling may be carried out meets the environmental standards set by the National Environmental Management Authority and the miller has been issued with a certificate of safety by the relevant county government.”
- (c) inserting the following new sub clause immediately after sub clause (6) —
“(7) A person who contravenes the provisions of this section commits an offence and shall upon conviction be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.”

NEW PART IIIA AND IIIB

THAT, the Bill be amended by inserting the following new Parts immediately after Part III—

**PART IIIA- ESTABLISHMENT OF THE KENYA
SUGAR RESEARCH INSTITUTE**

Establishment
of the Kenya
Sugar Research
Institute.

16A. (1) There is hereby established a body to be known as the Kenya Sugar Research Institute.

(2) The Institute is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

Functions of
the Institute.

16B. (1) The Institute shall—

- (a) promote, co-ordinate and regulate research in sugar and sugar diseases; and
- (b) expedite equitable access to research information, resources and technology and promote the application of research findings and technology in the development of sugar.

(2) For the purpose of carrying out its functions, the Institute shall—

- (a) formulate policy and make policy recommendations to the Cabinet Secretary on sugar research;
- (b) prioritise areas for, and co-ordinate, sugar research in Kenya in line with the national policy on sugar;
- (c) determine and advise the Government on the resource requirements for sugar research in Kenya both at the national and county level;
- (d) regulate, monitor and ensure that all sugar research undertaken by other institutions or persons undertaking sugar research is consistent with the national priorities specified in the relevant policy documents;
- (e) formulate or approve medium and long term research plans, strategies and budgets of the Institute;

- (f) provide grants to institutions or persons desirous of carrying out research and training programs which are consistent with the national research priorities and plans of the Institute;
- (g) support and promote the training and capacity building in relation to agricultural research;
- (h) liaise with and ensure the co-ordination of institutions, agencies and persons involved in sugar research;
- (i) establish platforms for the purposes sharing of research information, advancing research and transfer of technology and dissemination of information relating to advancements made in sugar research;
- (j) conduct training in industry best practice and value-addition;
- (k) ensure continuance of performance improvement in the field of sugar research;
- (l) breed sugarcane varieties suited for various agro-ecological areas of Kenya;
- (m) conduct research on nutritional requirements of sugarcane in order to provide recommendations on the appropriate fertilizers;
- (n) appraise technologies on land preparation, drainage and water management for economical cane production;
- (o) study and monitor of pests and diseases that affect sugarcane and recommending appropriate control strategies;
- (p) develop agronomic packages for sugarcane maintenance and management;
- (q) institute socio-economic investigations to improve human resource management and enhance development of the sugar industry as an agribusiness;
- (r) test, design and evaluate farm machinery and factory equipment for efficient sugar production;
- (s) promote the transfer of sugar technology based on applied research through relevant extension mechanisms;
- (t) foster research on sustainable productivity, environmental issues, human safety at field and factory levels;

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- (u) collaborate with the Government, the industry, universities and other national and international organizations for the purpose of furthering the Institute's mission;
- (v) analyse soil and plant samples for advisory purposes;
- (w) offer modular courses on various aspects of cane management and practices; and
- (x) perform such other function as may be conferred on it by this Act or any other written law.

Management
of the
Institute.

16C. The Management of the Institute shall vest in a Board which shall consist of—

- (a) a chairperson appointed by the Cabinet Secretary who shall have a background in agricultural research or related field;
- (b) three persons nominated by the farmers from each of the sugar catchment regions under the Second Schedule;
- (c) two persons nominated by the farmers from each of the sugar catchment regions under the Second Schedule;
- (d) the Principal Secretary for the time being responsible for the National Treasury or a representative appointed in writing;
- (e) the chief executive officer of the Board;
- (f) the chief executive officer of the Kenya Agricultural Livestock and Research Organization; and
- (g) the Director General who shall be an *ex officio* member.

Application.

16D. The provisions of section 5A, 5B, 7, 8 and 9 shall apply to the Board of the Institute with necessary modification.

Funds of the
Institute.

16E. The funds of the Institute shall consist of-

- (a) monies remitted by the Board from the sugar development levy;
- (b) any monies received by the Institute from grants and donations; and
- (c) monies from any other source as approved by the responsible Ministry.

Director
General of the
Institute.

16F. (1) There shall be a Director General of the Institute who shall be appointed by the Board of the Institute whose terms and conditions of service shall be determined by the Board of the Institute in the instruments of appointment or otherwise in writing from time to time.

(2) A person shall be qualified for appointment under this section if the person-

- (a) holds a degree from a university recognized in Kenya in agricultural research, soil and seed research, soil science or related field;
- (b) has at least five years' experience in managerial capacity; and
- (c) meets the provisions of Chapter six of the Constitution.

PART IIIB – APPOINTMENT OF CROP INSPECTORS

Appointment of
crop inspectors.

16G. (1) The Board may appoint qualified persons to be crop inspectors for the purposes of this Act.

(2) For purposes of subsection (1), the Board may, by regulations, prescribe the qualifications for appointment as a crop inspector.

Entry and
inspection.

16H. An inspector or a person duly authorized in writing in that behalf by the Board may, at all reasonable times and upon production of such authority to any person so requesting—

- (a) enter any land or buildings occupied by the holder of a licence issued under this Act, or a person registered under this Act;
- (b) make such inspection and enquiries as the person may deem necessary for ascertaining whether the provisions of this Act or the terms and conditions of the respective licence are being complied with; and
- (c) may require any person found thereon to give such information as the person may require.

Powers of entry.

16I. (1) For the purposes of this Act, an inspector who has reasonable grounds may—

- (a) at any reasonable time, enter upon any land, premises or vehicle;
- (b) take such persons and things as the inspector considers necessary;
- (c) perform the functions or exercise the powers conferred by this Act or any other written law;
- (d) make enquiries or carry out a search to ascertain if this Act is being complied with;

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- (e) demand the production by a licence holder of the licence for examination;
- (f) seize and remove any article or thing in respect of which the inspector has reasonable grounds for believing that an offence under this Act is being or has been committed; or
- (g) do any other thing authorized under this Act.

(2) The owner or occupier of any land or a person in control of any premise or a vehicle which an inspector has entered under subsection (1) shall render such reasonable assistance as may be required by the inspector.

(3) A person who refuses, unreasonably delays or fails to comply with a requirement under subsection (2) commits an offence.

Obstruction of
inspectors.

16J. (1) A person shall not prevent, hinder or obstruct an inspector in performance of the functions, and duties or exercise of powers conferred by this Act.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or both.

CLAUSE 18

THAT, clause 18 be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

“(1) The Cabinet Secretary may, in consultation with the Board, by order in the Gazette, impose a levy on domestic sugar and a ten per centum of CIF value on imported sugar to be known as the Sugar Development Levy.”

(b) by inserting the following new subclauses immediately after subclause (6)—

“(7) The Sugar Development Levy collected under subsection (2) shall be apportioned as follows—

- (a) fifteen per centum shall be applied by the Board for income or price stabilization for sugar growers;
- (b) twenty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board;
- (c) twenty per centum shall be remitted directly to the Institute;
- (d) forty five per centum shall be applied for infrastructure development in the sugar subsector on a pro rata basis.

“(8) the funds provided for under subsection (7)(a) shall be used to provide for sustainable, affordable credit and advances to farmers for all or any of the following purposes—c

- (a) farm improvement;
- (b) farm inputs;
- (c) farming operations; and
- (d) price stabilization.

CLAUSE 22

THAT, the Bill be amended by deleting clause 22.

NEW PART IVA

THAT, the Bill be amended by inserting the following new Part immediately after Part IV—

**PART IVA- ESTABLISHMENT OF THE SUGAR
ARBITRATION TRIBUNAL**

Establishment of the
Sugar Arbitration
Tribunal.

24A. (1) There is hereby established Tribunal to be known as the Sugar Arbitration Tribunal.

(2) The Tribunal shall consist of—

(a) a chairperson appointed by the Chief Justice who shall be a person qualified to be appointed as a judge of the High Court; and

(b) four other members, being persons with expert knowledge of the matters likely to come before the Tribunal and who are not persons with a direct material interest in the sugar industry, all of who shall be appointed by the Chief Justice in consultation with the Attorney-General and the Council of County Governors.

(3) The Chairperson and members of the Tribunal shall serve on a part-time basis.

(4) The members of the Tribunal appointed under subsection (2) shall hold office for such period, not exceeding three years, on such terms and conditions as shall be specified in the instrument of appointment but shall be eligible for re-appointment for one further term of a period not exceeding three years.

(5) A person shall not be qualified to be appointed as a member of the Tribunal if that person is a public servant or takes an active part in the activities of a political party.

(6) A person shall not qualify for appointment under this section unless the person has met the requirement of Chapter Six of the Constitution.

(7) The provisions set out in the Third Schedule shall have effect with respect to the meetings and procedure of the Tribunal.

(8) Except as provided in the Third Schedule, the Tribunal shall regulate its own procedure as to the conduct of meetings.

Jurisdiction of the
Tribunal.

24B. (1) The Tribunal shall determine—

(a) disputes between sugarcane farmers;

(b) disputes between sugarcane farmers and the following-

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- (i) out grower institutions;
- (ii) millers;
- (iii) growers; or
- (iv) other interested party;
- (c) disputes relating to cane pricing;
- (d) disputes relating to contract farming,

Determination of disputes.

24C. (1) The Tribunal shall determine any dispute before it expeditiously, but in any case, shall determine a dispute within a period of three months from the date the dispute is lodged.

(2) An Appeal shall lie from the decision of the Tribunal to the High Court on points of law and facts and on points of law to the Court of Appeal.

(3) A decision of the Tribunal shall be enforced in the same manner as a decision of a Magistrates Court.

(4) The Tribunal shall apply the rules of evidence and procedure under the Evidence Act (Cap. 80) and the Civil Procedure Act (Cap. 21), with the necessary modifications, while ensuring that its proceedings do not give undue regard to procedural technicalities.

Powers of the Tribunal.

24D. The Tribunal shall have the powers of the High Court—

- (a) to administer oaths to the parties and witnesses to the proceedings;
- (b) to summon witnesses and to require the production of documents;
- (c) to order the payment of costs; and the provisions of the law relating to Commissions of Inquiry in Kenya with respect to—
 - (i) the protection of the members of the Tribunal from suit;
 - (ii) the form of summonses to witnesses;
 - (iii) to giving or fabricating of false evidence;
 - (iv) the duty and indemnity of witnesses, and the penalty for contumacy, insult or interruption of proceedings; and
 - (v) the appearance of advocates; shall with any necessary adaptations or modifications, apply to the members of, the witnesses before, and the proceedings before, the Tribunal in like manner as they apply to Commissions of Inquiry.

Removal of members of the Tribunal.

24E. A member of the Tribunal may be removed if the member—

- (a) becomes an undischarged bankrupt;
- (b) is convicted of a criminal offence and sentenced to imprisonment for a period exceeding six months without the option of a fine;
- (c) is incapacitated by reason of prolonged physical or mental illness from performing the duties of the office;
- (d) violates the Constitution; or
- (e) is otherwise unable or unfit to discharge the functions of the office.

Vacancy.

24F. Where the office of any member becomes vacant,

whether by death or otherwise, the Chief Justice may appoint another person to be a member of the Tribunal for the remainder of the term of the member whose vacancy cause the appointment.

Secretary of the Tribunal.

24G. The Chief Justice shall appoint a Secretary and such other staff of the Tribunal necessary for the proper functioning of the Tribunal.

Remuneration of members and staff of the Tribunal.

24H. (1) The remuneration of the staff of the Tribunal and the expenses of the Tribunal shall be paid out of monies allocated by the National Assembly to the Judiciary Fund.

(2) The Chairperson and members of the Tribunal shall be paid such allowances and be reimbursed such expenses as shall be determined by the Judicial Service Commission on the recommendation of the Salaries and Remuneration Commission.

CLAUSE 26

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

Quality, safety and health control measures.

26. (1) All sugar millers and importers shall ensure that all sugar produced locally or imported into the country meets—

- (a) safety and quality standards as set by the body for the time being responsible for setting standards;
- (b) safety and health standards for food handlers as set by the body for the time being responsible for public health; and
- (c) environmental issues as set by the body for the time being responsible for environment.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable, upon conviction—

- (a) to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding seven years, or to both; and
- (b) the court may where a person is convicted for an offence make a further order that the persons licence be withdrawn.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 26—

Inspection for quality and safety.

26A. (1) The Board shall carry out physical inspection of premises licenced under section 15 quarterly to ensure that safety and health standards are followed.

(2) Every person licenced under this Act shall—

- (a) not discharge any, affluent dangerous materials, substances, oil, oil mixtures into land, water, air, or aquatic environment;
- (b) not release smoke or any air pollutant to the air that pollutes the environment;
- (c) manage any hazardous waste and materials;
- (d) not import any hazardous waste;
- (e) not mislabel any sugar or jaggery; and
- (f) not aid or abet illegal trafficking of sugar or related substances.

(2) When an offence under this section, is committed by a body corporate, the body corporate and every director or officer of the body corporate who ought to have had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or to an imprisonment for a term not exceeding five years.

(3) In addition to the sentence under subsection (2), the Court may order for the revocation of a licence.

CLAUSE 27

THAT, the Bill be amended by deleting clause 27 and substituting therefor the following new clause—

Safeguard measures.

27. (1) The Board shall ensure, subject to such regional and international trade agreements to which Kenya is a party, that all sugar imports into the country are subject to all the prevailing import duties, taxes and other tariffs.

(2) Despite subsection (1), the Board shall ensure that—

(a) sugar shall be imported in the country only when there is sugar deficit on a quarterly basis and for a specific tonnage; and

(b) importers report to the Board on their imports, sales and stock on daily basis.

(3) The Government shall introduce other safeguard measures as may be necessary to protect the industry from unfair trade practices.

(4) A person who contravenes the provision of this section commits an offence and shall be liable, on conviction, to a fine not exceeding three times the domestic value of the sugar in respect of which the offence is committed, or two million shillings, whichever is the higher, or to imprisonment for a term not exceeding ten years, or to both

CLAUSE 29

THAT, clause 29 of the Bill be amended in subclause (3)—

- (a) in paragraph (c) by inserting the words “, in consultation with stakeholders,” immediately after the words “agricultural produce”;
- (b) in paragraph (e) by deleting the word “impose” appearing after the words “to the Board to” and substituting therefor the word “enforce”; and
- (c) in paragraph (f) by deleting the word “imposition” appearing at the beginning of the paragraph and substituting therefor the word “enforcement”.

CLAUSE 30

THAT, clause 30 of the Bill be amended—

- (a) by deleting the marginal note and substituting therefor with the following—
“Rights of growers in a privatized company”
- (b) in paragraph (b) by deleting the word “milling” appearing after the words “directors of” and substituting the words “privatized company”

NEW CLAUSE

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

Representative of
a grower in a
private milling
company.

“**30A.** (1) Notwithstanding the provisions of any other Act, each private sugar milling company shall have a representative of the growers in its board of directors.

(2) In appointing a director representing the growers under subsection (1), the milling company shall consider in the first instance, the leaders of the out-grower institutions within the sugar-cane catchment area in which the sugar mill is located.

(3) A person appointed as a director under subsection (1), shall serve for a term not exceeding two years.”

CLAUSE 31

THAT, the Bill be amended by deleting Clause 31.

CLAUSE 33

THAT, Clause 33 of the Bill be amended—

- (a) in subclause (1) by inserting the words “shall in consultation with the Board” immediately after the word “Secretary”;
- (b) in subclause (2) by inserting the following new paragraphs immediately after paragraph (a) —
 - “(ca) the establishment of weigh bridges;
 - (cb) standards on grading, sampling and inspection, tests and analysis, specifications, units of measurement, code of practice and packaging, preservation, conservation and transportation of sugar and sugar by-products to ensure safety and proper trading;
 - (cc) production and import of sugar to ensure adequate sugar availability in the country;
 - (cd) guidelines on general industry agreements between growers and millers and between parties in the sugar industry;
 - (ce) minimum period within which farmers are to be paid for sugar crop delivered and penalties for delayed payments; and
 - (cf) cane harvesting and transportation;”
- (c) by inserting the following new subsection immediately after subsection (3)-
 - “(4) Without prejudice to the generality of this section, the Cabinet Secretary shall make the regulations necessary to operationalize this Act within twelve months from the date of commencement of this Act.”

FIRST SCHEDULE

THAT, the First Schedule to the Bill be amended—

- (a) by inserting the following heading:

“PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD”

(b) in paragraph 2 by—

- (i) deleting the words “seven members” appearing in sub-paragraph (4) and substituting therefor the words “two thirds of the members of the Board provided that in the case of a tie, the chairperson shall have a casting vote.”
- (ii) deleting subparagraph (5) and substituting therefor the following new subparagraph—

“(5) The chairperson shall preside at every meeting at which he or she is present but, in his or her absence, the members shall elect one of their members to preside who shall with respect to that meeting and the business transacted thereat have all the powers of the chairperson.”
- (iii) by deleting subparagraph (6);
- (iv) deleting the words “or the vice chairperson” appearing in sub-paragraph (7) a immediately after the words “the Chairperson”

SECOND SCHEDULE

THAT, the Second Schedule to the Bill be amended—

- (a) in paragraph 1 by deleting the word “agreements” appearing before the word “define” and substituting therefor the word “guidelines”;
- (b) in paragraph 2 —
 - (i) by deleting the word “agreements” appearing at the opening paragraph and substituting therefor the word “guidelines”;
 - (ii) by deleting the definition of the “Kenya Sugar Research Foundation”;
 - (iii) by deleting the definition “Kenya Sugarcane Growers Association”
 - (iv) by deleting the definition “Kenya Sugar Research Foundation” and substituting therefor the following new definition—

“Kenya Sugar Research Institute” means the Kenya Sugar Research Institute established under Part IIIA of this Act;
 - (v) by inserting the following new definition—

“sugar lobby group” means a registered group of people comprising of farmers and growers from the sugar catchment areas championing the rights of sugar stakeholders;
- (c) in paragraph 3 by deleting sub paragraph (f);
- (d) by deleting paragraph 4;
- (e) in paragraph 5—
 - (i) by deleting subparagraph (g) and substituting therefor the following new subparagraph—

“(g) make representations to the Sugar Cane Pricing Committee;”
 - (ii) by deleting the words “Kenya Sugar-cane Growers Association” appearing in subparagraph (h) and substituting therefor the words “registered sugar lobby groups”
- (f) in paragraph 6—

- (i) by deleting the expression “30 days” appearing in subparagraph (d) and substituting therefor the expression “15 days”;
- (ii) by inserting the following subparagraph immediately after paragraph (f)—
“(fa) ensure that mobile weighbridges are closer to growers;”
- (iii) by deleting paragraph (h)
- (g) in paragraph 7 in subparagraph 2(b) by deleting the word “zones” appearing at the end of the subparagraph and substituting therefor the words “sugar catchment region”;
- (h) by deleting paragraph 8 and substituting therefor the following new paragraph—

Sugar Cane
Pricing
Committee.

8. (1) There shall be a Sugar Cane Pricing Committee (hereinafter referred to as “the Committee”).

(2) The Committee shall comprise of —

- (a) the Chief Executive Officer of the Board;
- (b) two persons nominated by the Kenya Sugar Manufacturers Association;
- (c) three persons nominated by the sugar cane growers from the sugar catchment region;
- (d) one representative from the sugar lobby groups;
- (e) the Principal Secretary responsible for matter related to agriculture or a representative appointed in writing;
- (f) one representative from county government nominated by the Council of Governors; and

(2) The main objectives of the Committee shall be to—

- (a) review sugar cane prices;
- (b) provide a mechanism that remunerates farmers for other products delivered from the processing of cane;
- (c) ensure adherence to negotiated cane pricing formula;
- (d) transition to payment based on quality; and
- (e) enforcement of contracts between farmers and millers.

(4) The Committee shall come up with the pricing formula and in doing so shall take into account the—

- (a) pricing mechanisms for all other cane related charges paid by the farmer; and
- (b) an index that takes into consideration delayed harvesting;
- (c) transportation cost per tonne per kilometre of sugarcane.

(5) The Board shall offer Secretariat services to the Committee

(6) The sugar-cane prices set by the committee under subparagraph (2) shall be reviewed after every thirty-six months provided that the Committee may, with the prior approval of the Board, undertake an early review of the sugar-cane pricing.

THIRD SCHEDULE

THAT, the Third Schedule to the Bill be amended by —

- (a) deleting paragraph 4 and 5;
- (b) inserting the following new paragraph immediately after paragraph 6—
“(6A) The quorum of the Tribunal shall be three members”; and
- (c) deleting paragraph 8.

NEW SCHEDULE

THAT, the Bill be amended by inserting the following new schedule immediately as the First Schedule—

FIRST SCHEDULE**[S. 2]****DELINEATION OF SUGAR CATCHMENT AREAS****SUGAR CATCHMENT COUNTIES
AREAS**

Rift Region	Kericho, Nandi and Uasingishu
Upper Western	Bungoma, and Trans Nzoia
Lower Western Region	Busia Kakamega, Siaya and Vihiga
Southern Region	Homa Bay, Kisumu, Migori and Narok
Coastal Region	Kwale, Lamu, and Tana River

FIRST, SECOND AND THIRD SCHEDULE

THAT, the Bill be amended by renaming the First, Second and Third Schedule as Second, Third and Fourth Schedule respectively.

2) **Notice is given that the Member for Kanduyi (Hon. Wafula Wamunyinyi MP) intends to move the following amendments to the Sugar Bill, 2019 at the Committee Stage-**

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after Clause 9—

Headquarters of the
Board.

9A. (1) The headquarters of the Board shall be in Kisumu County.

(2) The Board may establish offices in other parts of the country as the Board may determine.

3) Notice is given that the Member for Funyula (Hon. (Dr.) Ojiambo Oundo, MP) intends to move the following amendments to the Sugar Bill, 2019 at the Committee Stage-

CLAUSE 36

THAT, the Bill be amended by deleting Clause 36 and substituting therefor the following new Clause—

Transfer of staff.
No. 13 of 2013

“**36.** (1) Upon the commencement of this of this Act, a person who was a member of the staff of the former Kenya Sugar Board before the commencement of the Agriculture and Food Authority Act, and current staff of the Sugar Directorate not being under any notice of dismissal or resignation shall upon commencement of this Act and subject to subsection (2) become a staff of the Board on their current improved terms and conditions of service.

(2) The pensions of staff under the provident fund of Agriculture and Food Authority- Sugar Directorate shall on the commencement of the Act vest in the Board.



LIMITATION OF DEBATE

The House resolved on Wednesday, February 10, 2021 as follows-

Limitation of Debate on Individual Members' Bills

- II. THAT**, each speech in a debate on **Bills NOT** sponsored by a **Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of three hours and thirty minutes, with not more than thirty (30) minutes for the Mover, in moving and ten (10) minutes in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each; and **THAT** priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in **THAT** order.
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...../Notice Paper*

NOTICE PAPER

Tentative business for Wednesday (Afternoon) October 13, 2021

(Published pursuant to Standing Order 38(1))

It is notified that the House Business Committee has approved the following *tentative* business to appear in the Order Paper for Wednesday (Afternoon), October 13, 2021-

A. THE CHILDREN BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2021)

(The Leader of the Majority Party)

First Reading

B. THE COUNTY GOVERNMENTS GRANTS BILL (SENATE BILL NO. 35 OF 2021)

(The Chairperson, Budget and Appropriations Committee)

First Reading

C. THE BASIC EDUCATION (AMENDMENT) BILL (SENATE BILL NO. 4 OF 2021)

(The Chairperson, Departmental Committee on Education and Research)

First Reading

D. THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILL NO. 28 OF 2020)

(The Chairperson, Departmental Committee on Health)

First Reading

E. THE COUNTY LICENCING (UNIFORM PROCEDURES) BILL (SENATE BILL NO. 32 OF 2020)

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

First Reading

F. THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2020)

(The Chairperson, Departmental Committee on Finance and National Planning)

First Reading

- G. **MOTION – FURTHER CHANGES TO COMMITTEE MEMBERSHIP**
(The Chairperson, Committee on Selection)
- H. **MOTION – SESSIONAL PAPER NO. 1 OF 2021 ON THE NATIONAL WATER POLICY**
(The Chairperson, Departmental Committee on Environment and Natural Resources)
- I. **MOTION - RATIFICATION OF THE BILATERAL AIR SERVICES AGREEMENTS BETWEEN THE REPUBLIC OF KENYA AND THE REPUBLIC OF SOUTH AFRICA; AND BETWEEN THE REPUBLIC OF KENYA AND THE REPUBLIC OF BOTSWANA**
(The Chairperson, Departmental Committee on Transport, Public Works and Housing)
- J. **MOTION – RATIFICATION OF THE BILATERAL AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION**
(The Chairperson, Departmental Committee on Transport, Public Works and Housing)
- K. **MOTION – CONSIDERATION OF THE PETROLEUM DEVELOPMENT LEVY (AMENDMENT) ORDER, 2021**
(The Chairperson, Committee on Delegated Legislation)
- L. **THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2020)**
(The Chairperson, Constitutional Implementation Oversight Committee)

Second Reading

M. **COMMITTEE OF THE WHOLE HOUSE**

The Waqf Bill (National Assembly Bill No. 73 of 2019)
(The Leader of the Majority Party)

N. **THE MEDIATION BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2020)**

(The Leader of the Majority Party)

Second Reading

O. **THE COMMUNITY GROUPS REGISTRATION BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2020)**

(The Leader of the Majority Party)

Second Reading

A P P E N D I X
**NOTICE OF PETITIONS, QUESTIONS &
STATEMENTS**
ORDER NO.7 - QUESTIONS

It is notified that, pursuant to the provisions of Standing Order 42A (5), the following Members will ask **questions** for reply before the specified Committees-

QUE. NO.

ORDINARY QUESTIONS

388/2021

The Member for Tigania East (Hon. Josphat Kabeabea, MP) to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works: -

- (i) Why is the upgrading of the *Mikinduri -Kunati - Gatithine* Road in Tigania East Constituency, yet to commence over 4 years since the contract for the works was awarded to *M/s. Elite Construction Company*?
- (ii) What measures is the Ministry putting in place to ensure the said road, which is currently impassable, is urgently rehabilitated before the rainy season?
- (iii) Are there plans by the Ministry to ensure that the said road is upgraded to bitumen standards?

(To be replied before the Departmental Committee on Transport, Public Works and Housing)

398/2021

The Member for Rarieda (Hon. (Dr.) Otiende Amollo, MP) to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works: -

- (i) Could the Cabinet Secretary provide the status of construction of the *Luanda - Akado - Kalandin Road (RWC 119)* under *Low Volume Seal* tarmacking in Rarieda Constituency, which stalled at *Nyandiva Bridge*, with only approximately 4.8 kilometers remaining to completion?
- (ii) Could the Cabinet Secretary state the total amount of money that was allocated for the road, the amount already paid to the contractor and the outstanding amount, if any?
- (iii) What action does the Ministry ordinarily take against contractors who fail to meet their contractual obligations in the implementation of road projects, for instance abandoning sites without having completed projects awarded to them; and could the Cabinet Secretary indicate the action(s) to be taken against the contractor assigned to the said road who has since abandoned site?

- (iv) Could the Cabinet Secretary state the measures that the Ministry has put in place to ensure that construction of the said road resumes as soon as possible and that the project is completed, and state the revised completion timeline?

(To be replied before the Departmental Committee on Transport, Public Works and Housing)

405/2021

The Member for Meru County (Hon. Bishop Kawira Mwangaza, MP) to ask the Cabinet Secretary for Devolution and ASALs: -

- (i) What steps is the Ministry taking to ensure food security in Meru County, particularly during natural disasters such as floods, drought and famine?
- (ii) What measures has the Ministry put in place to establish natural disaster preparedness mechanisms in Meru County particularly with regard to floods, drought and famine?

(To be replied before the Departmental Committee on Administration and National Security)

421/2021

The Nominated Member (Hon. Godfrey Osotsi, MP) to ask the Cabinet Secretary for Energy: -

- (i) Could the Cabinet Secretary explain why Kenya Power and Lighting Company Limited is operating without insurance of critical assets under *Public Liability (with Consequential Loss)* insurance cover, and Fire and Perils cover for 122 substations distributed across the country, thereby exposing strategic public installations worth over Kshs. 37 billion, and employees to major risks in case of accidents?
- (ii) Under what circumstances was the procurement of the two insurance contracts contained in Tender No. KPI/9A.2/RT/001/INS/21-22 not awarded and finalized even after completion of tender evaluation and issuing notification letters to successful bidders?
- (iii) What specific steps is the Cabinet Secretary taking to ensure prompt completion of the procurement process and alleviate potential operational and financial risks that are likely to arise from lack of insurance cover for strategic national installations at the KPLC?

(To be replied before the Departmental Committee on Energy)
