

**REPUBLIC OF KENYA****TWELFTH PARLIAMENT – SIXTH SESSION****THE NATIONAL ASSEMBLY****VOTES AND PROCEEDINGS****THURSDAY, FEBRUARY 3, 2022 (AFTERNOON SITTING)**

1. The House assembled at Thirty Minutes past Two O'clock.
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker

4. MESSAGES

The following Message was conveyed by the Speaker: -

Referral by H.E. the President of the Kenya Deposit Insurance (Amendment) Bill, 2021

“Honourable Members,

You may recall that, towards the end of the last Session, the National Assembly passed the **Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020)**. The Bill was sponsored by the Member for North Imenti Constituency, the Hon. Abdul Rahim Dawood, MP. Following its passage, I did present the Bill for Assent to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders. However, in exercise of the powers conferred under Article 115(1)(b) of the Constitution, H.E. the President, by way of a Memorandum, has referred the Bill back to the National Assembly for reconsideration.

Honourable Members, in his Memorandum, H.E. the President has expressed reservations to **Clause 2 of the Bill**, which seeks to amend Section 28 of the Kenya Deposit Insurance Act, by deleting subsection (2) and introducing a new provision to prescribe six months as the waiting period for payment of compensation to a customer in respect of a protected deposit.

Honourable Members, H.E. the President notes that the proposed new subsection is inconsistent with section 33(6) of the Act, which provides as follows –

“(6) Where the Corporation is obliged to commence payment under subsection (1) in respect of any insured deposits, the Corporation shall, unless there are extraneous circumstances hindering the Corporation, within thirty days after being appointed liquidator make payment based on the records of the institution and the

opinion of the Corporation as regards entitlement of the amount claimed.”

Honourable Members, H.E The President also objects to the proposal on grounds that the provision is in conflict with paragraph 15 of the International Association of Deposit Insurance’s *core principles* for effective deposit insurance systems which provides as follows –

“The deposit insurance system should reimburse depositor’s insured funds promptly, in order to contribute to financial stability. There should be a clear and unequivocal trigger for insured depositor reimbursement.”

Honourable Members, H.E The President has therefore recommended that the proposed amendment **be deleted.**

Honourable Members, H.E. the President has also expressed reservations to the **introduction of a new subsection (3) of Clause 2 which imposes a fine not exceeding one million shillings, or imprisonment for a term not exceeding three years, or both, for contravention of the impugned provision.**

In his Memorandum, H.E. the President notes that this new provision fails to provide for offences committed by corporate persons. H.E. the President therefore recommends that the proposed subsection be amended to include sanctions for offences committed by a body corporate. His recommended text is contained in the Memorandum to the House.

Honourable Members, Standing Order 154(2) requires the House to consider the President’s Reservations **within twenty-one (21) days** upon receipt of the Memorandum. In this regard, the Reservations of the President, as contained in his Memorandum, now stand committed to the Departmental Committee on Finance and National Planning for consideration. The Committee should *Table* its report soonest to allow the House to consider the President’s Reservations within the said timelines.

Honourable Members, the consideration of the President’s Reservations will be done in accordance with the provisions of Article 115 of the Constitution as well as the *Speaker’s Communication* of July 28, 2015 relating to the *Consideration of the President’s Reservations to a Bill and amendments thereto.*

I now direct the Clerk to circulate the Memorandum of H.E. the President on the said Bill to all Members so that they familiarize themselves with its contents.

I thank you!”

5. PETITIONS

The following Petition was conveyed by the Speaker:-

DEGRADATION OF THE ENVIRONMENT ALONG SONDU MIRIU DAM DUE TO FAILURE BY KENGEN COMPANY TO FULLY COMPLY WITH ENVIRONMENTAL IMPACT ASSESSMENT OF 1995

“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, I wish to report to the House a Petition by members of *Mwangaza ABUNYA Community Development Group*, on behalf of communities living around *Sondu Miriu Dam* in Nyakach Constituency regarding degradation of the environment along *Sondu Miriu Dam* due to failure by the Kenya Electricity Generation (KENGEN) Company to fully comply with the *Environmental Impact Assessment of 1995*. The Petitioners lament that since completion of the Dam in 2009, KENGEN's reluctance to comply with the recommendations of the Environmental Impact Assessment Report has exposed them to numerous environmental hazards.

Honourable Members, the Petitioners state that KENGEN has left weeds to sprawl and cover the surface of the Dam water, consequently rendering the water unfit for domestic use; hampering water transportation and creating a breeding ground for mosquitoes and other dangerous animals like snakes. The Petitioners also claim that KENGEN reneged on executing the mitigation measures for containing malaria and other waterborne diseases, hence increasing chances of disease and mortality in the region. In addition, siltation at the Dam has compromised the quality of water and occasioned loss of livestock due to infestation of liver flukes and lukeworms. The Petitioners further state that following construction the Dam, vital access roads were blocked, particularly the access road to *Kabondo Sub-County Hospital*, which has hindered emergency medical response. KENGEN is yet to open up alternative routes or construct a bridge across *Sondu Miriu River*, which is hindering transportation and commercial activities between *Kisumu and Homabay Counties*. Finally, the Petitioners are disillusioned that in spite of the fact that *Sondu Miriu power generation plant* is hosted within their region, the local community is yet to be connected to electricity supply.

Honourable Members, the Petitioners therefore pray to the National Assembly to–

- 1) Investigate the issues raised regarding the current state of *Sondu Miriu Dam* and its effects on the residents' right to clean water and safe environment with a view to recommending appropriate mitigation measures;
- 2) Investigate the extent to which KENGEN has failed to implement the *Environmental Impact Assessment of 1995* and recommend its full implementation, including opening up blocked access roads; maintain existing murrum roads, constructing drainage culverts and bridges at *Wath Karoko Point* to link *Kisumu and Homabay Counties* and another one to link *St. Anthony's Secondary School and Abuoye Primary School*;
- 3) Recommend to KENGEN to construct a health centre at *Mamboleo Grounds* to serve the local communities which is exposed to high prevalence of waterborne diseases due the stagnant Dam water;
- 4) Find out the projects that KENGEN has implemented under *Corporate Social Responsibility (CSR)* to the affected communities living majorly in *Kodhoch West and Kawuor Locations* since inception to date and recommend to KENGEN to link with *Last Mile Connectivity Project* to supply electricity to the affected communities so that the community gains advantage of hosting the Dam;
- 5) Recommend to KENGEN to initiate infrastructure facelift and provision of learning materials in schools within the region, especially *Abuoye, Nyandolo and Ogeka Primary Schools* as part of CSR programme; and,

- 6) Recommend to KENGEN to release all the title deeds that have been held at their offices since 2005 when construction of the Dam began and help the community in processing of title deeds for the parcels of land which had not been finalized;
- 7) Makes any other recommendation(s) deemed necessary in addressing the circumstances of the Petitioners.

Honourable Members, having determined that the matters raised by the Petitioner are well within the authority of this House, I order that, pursuant to the provisions of Standing Order 227(1), this petition be committed to the Departmental Committee on Energy. The Committee is required to consider the petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

I thank you!”

6. PAPERS

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

1. Legal Notice No. 263 relating to the Data Protection (General) Regulations, 2021 and the Explanatory Memorandum from the Ministry of ICT, Innovation and Youth Affairs;
2. Legal Notice No. 264 relating to the Data Protection (Complaints Handling and Enforcement Procedures) Regulations, 2021 and the Explanatory Memorandum from the Ministry of ICT, Innovation and Youth Affairs;
3. Legal Notice No. 265 relating to the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 and the Explanatory Memorandum from the Ministry of ICT, Innovation and Youth Affairs;
4. Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30th June, 2021 and the certificates therein: -
 - a) Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase II - Kenya National Highways Authority;
 - b) Kenya Maritime Fisheries and Social-Economic Development Project – Ministry of Agriculture, Livestock, Fisheries and Cooperatives;
 - c) Global Fund HIV/AIDS Project Grant – National Aids Control Council;
 - d) Health Sector Support Project – Kenya Medical Suppliers Authority (KEMSA);
 - e) Global Fund Tuberculosis Grant Programme - Ministry of Health;
 - f) Kenya Youth Employment and Opportunities Project – State Department for Youth Affairs;
 - g) Thwake Multi-Purpose Development Program Phase I;
 - h) Ewaso Ng’iro South Development Authority;
 - i) Emergency Locusts Response Project – State Department for Crop Development and Agricultural Research;
 - j) Regional Pastoral Livelihood Resilience Project – Ministry of Agriculture, Livestock, Fisheries and Cooperatives;
 - k) Enable Youth Kenya Program – State Department for Crop Development and Agriculture; Research;
 - l) Kenya Youth Employment and Opportunities Project - Micro and Small Finance Enterprise Authority;
 - m) Timboroa-Eldoret Road Rehabilitation Project - Kenya National Highways Authority;

- n) Port-Reitz/Moi International Airport Access Road - Kenya National Highways Authority;
 - o) Nairobi Southern Bypass Project - Kenya National Highways Authority;
 - p) Northern Corridor Rehabilitation Programme Phase III - Kenya National Highways Authority;
 - q) Kenya Transport Sector Support Project - Kenya Civil Aviation Authority;
 - r) Nuno-Modogashe Road Project - Kenya National Highways Authority;
 - s) Kenya; and
 - t) Transforming Health Systems Universal Care Project Grant - Ministry of Health.
5. Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30th June, 2020 and the certificates therein: -
- a) Kenya Institute of Mass Communication;
 - b) Numerical Machining Complex Limited;
 - c) LAPSET Corridor Development Authority;
 - d) Kirinyaga University;
 - e) Kenya Roads Board – Operations;
 - f) Kenya Road Boards Fund – State Department of Infrastructure;
 - g) Kenya Marine and Fisheries Research;
 - h) Kenya National Shipping Line Limited;
 - i) Kenya Citizens and Foreign Nationals Management Service;
 - j) President’s Awards Scheme;
 - k) National Research Fund;
 - l) Universities Fund;
 - m) Karen Technical Training Institute for the Deaf; and
 - n) Kenya Law Reform Commission.

(The Leader of the Majority Party)

6. Reports of the Departmental Committee on Finance and National Planning on the Vetting of Ms. Elizabeth Wangui Muchiri, Nominee for Appointment as a Member of the Salaries and Remuneration Commission representing the National Police Service Commission.

(Hon. Jimmy Angwenyi for the Departmental Committee on Finance and National Planning)

7. Statement regarding business of the House scheduled for the week commencing February 7, 2022 pursuant to Standing Order 44(2)(a).

(The Leader of the Majority Party)

7. NOTICES OF MOTION

The following Notices of Motion were given:

a) Annulment of the Environmental Management and Coordination (Impact Assessment and Audit) (Amendment) Regulations, 2016

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Environmental Management and Coordination (Impact Assessment and Audit) (Amendment) Regulations, 2016, laid on the Table of the House on Wednesday, November 10, 2021, and pursuant to the provisions of section 18 of the Statutory Instruments Act, 2013 and Standing Order 210(4)(b), **annuls in entirety** the

the Environmental Management and Coordination (Impact Assessment and Audit) (Amendment) Regulations, 2016, published as Legal Notice No. 149 of 2016.

(Chairperson, Committee on Delegated Legislation)

b) Annulment 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, September 21, 2021, and pursuant to the provisions of section 13 of the Statutory Instruments Act, 2013 **annuls in entirety** the the Public Finance Management (Sinking Fund) Guidelines, 2021, published as Gazette Notice No. 5085 of 2021.

(Chairperson, Committee on Delegated Legislation)

c) Approval of a Nominee for Appointment as a Member of the Salaries and Remuneration Commission

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning on the vetting of Ms. Elizabeth Wangui Muchiri, nominee for appointment as a member of the Salaries and Remuneration Commission representing the National Police Service Commission, laid on the Table of the House on Thursday, February 3, 2021, and pursuant to the provisions of Article 250(2)(b) of the Constitution, section 7 of the Salaries and Remuneration Commission Act, 2010 and sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of Ms. Elizabeth Wangui Muchiri as a member of the Salaries and Remuneration Commission.

(Hon. Jimmy Angwenyi for the Departmental Committee on Finance and National Planning)

8. QUESTIONS

a) The following Questions were made to various Ministries/State Departments/ Commissions: -

(i) Question 003/2022 by the Member for Lugari (Hon. Ayub Savula) regarding power supply charges paid by cement-manufacturing firms in the country.

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

(ii) Question 004/2022 by the Member for Tharaka (Hon. Gitonga Murugara) regarding appointment letters due to eight teachers.

(To be replied to in writing by the Teachers Service Commission through the Departmental Committee on Education and Research)

(iii) Question 018/2022 by the Member for North Imenti (Hon. Abdul Rahim Dawood) regarding abduction of Mr. Lewis Muthuri in North Imenti Constituency.

(To be replied to by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)

b) The following Question was deferred on the request of the Member: -

- (i) Question 014/2022 by the Member for West Mugirango (Hon. Kemosi Mogaka) regarding Roads Maintenance Levy Fund.

9. STATEMENTS

- (i) The Member for Garissa Township (Hon. Aden Duale) sought for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing on status of contracts awarded to foreign companies in the infrastructure sector. The Leader of the Majority Party undertook to consult the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding timelines for provision of the requisite Statement.
- (ii) The Leader of the Majority Party issued a Statement regarding business of the House scheduled for the week commencing February 7, 2022 pursuant to Standing Order 44(2)(a).

10. THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 32 OF 2021)

Motion made and Question proposed: -

THAT, the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 32 of 2021) be now read a Second Time.

(The Leader of the Majority Party -02.02.2022)

Debate on the Motion having been concluded on 02.02.2022;

Question put and agreed to.

11. THE SUSTAINABLE WASTE MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 22 OF 2021)

Motion made and Question proposed:-

THAT, the Sustainable Waste Management Bill (National Assembly Bill No. 22 of 2021) be now read a Second Time.

(The Leader of the Majority Party -02.02.2022)

Debate on the Motion having been concluded on 02.02.2022;

Question put and agreed to.

12. THE FOREST CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 53 OF 2021)

(Chairperson, Procedure and House Rules Committee)

Order for First Reading read;

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

13. **MOTION** - **REPORT ON ANNULMENT OF THE PUBLIC FINANCE MANAGEMENT (BIASHARA KENYA FUND) REGULATIONS, 2021 AND OTHER RELATED REGULATIONS**

Motion made and Question proposed:-

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; the Public Finance Management (*Uwezo Fund*) (Revocation) Regulations, 2021; the Public Finance Management (Women Enterprise Fund) (Revocation) Regulations, 2021; and the Public Finance Management (Youth Enterprise Development Fund) (Revocation) Regulations, 2021, *laid on the Table of the House on Tuesday, September 21, 2021*, and pursuant to the provisions of section 18 of the Statutory Instruments Act, 2013 **annuls in entirety** -

- (i) the Public Finance Management (*Biashara Kenya Fund*) Regulations, 2021 published as *Legal Notice No. 55 of 2021*;
- (ii) the Public Finance Management (*Uwezo Fund*) (Revocation) Regulations, 2021 published as *Legal Notice No. 56 of 2021*;
- (iii) the Public Finance Management (Women Enterprise Fund) (Revocation) Regulations, 2021 published as *Legal Notice No. 57 of 2021*; and
- (iv) the Public Finance Management (Youth Enterprise Development Fund) (Revocation) Regulations, 2021 published as *Legal Notice No. 58 of 2021*.

(Chairperson, Committee on Delegated Legislation)

Debate arising;

Change of Chair from the Honourable Speaker to Hon. Jessica Mbalu, MP

Mover replied;

Question deferred.

12*. **MOTION** - **REPORT ON ANNULMENT OF THE CROPS (FIBRE CROPS) REGULATIONS, 2020**

(The Chairperson, Committee on Delegated Legislation)

Motion Made and Question Proposed;

THAT, this House **adopts** the Report of the Committee on Delegated Legislation on its consideration of the Crops (Fibre Crops) Regulations, 2020 *laid on the Table of the House on Tuesday, November 17, 2020*, and pursuant to the provisions of section 18 of the Statutory Instruments Act, 2013 and Standing Order 210 (4)(b), **annuls in entirety** the Crops (Fibre Crops) Regulations, 2020 published as *Legal Notice No. 120 of 2020*.

Debate Arising;

Mover Replied;

Question Deferred.

13*. THE COFFEE BILL (SENATE BILL NO. 22 OF 2020)

Order for Second Reading read;

THAT, the Coffee Bill (Senate Bill No. 22 of 2020) be now read a Second Time.

(The Chairperson, Departmental Committee on Agriculture and Livestock)

Second Reading

Order Deferred.

14*. THE COPYRIGHT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2021)

Order for Second Reading read;

Motion made and Question proposed-

THAT, The Copyright (Amendment) Bill (National Assembly Bill No. 44 of 2021) be now read a Second Time.

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

Debate Arising;

Mover Replied;

Question on Second Reading Deferred;

And the time being Seven O'clock, and the scheduled business having been transacted, the Deputy Speaker adjourned the House without Question put pursuant to the Standing Orders.

14. HOUSE ROSE - at Seven O'clock

M E M O R A N D U M

The Speaker will take the Chair on-
Tuesday, February 8, 2022 at 2.30pm