



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, MARCH 28, 2023 AT 2.30 P.M.

1. The Senate assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.
3. **QUORUM IN THE HOUSE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, caused the Bell to be rung for five minutes pursuant to Standing Order 40;

And there being a Quorum after the expiry of five minutes;

The Speaker invited the Clerk to call the Orders of the day.

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

a) Visiting delegation from the County Assembly of Turkana

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, a delegation from the County Assembly of Turkana comprising Members of the Speaker’s Panel and its Secretariat. The delegation is undertaking a benchmarking visit in the Senate.

I request each Member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition.

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| 1. Hon. Philip Ekuwam Lomuria | Deputy Speaker |
| 2. Hon. Michael Ewoi | 1 st Member |
| 3. Hon. Mary Arupe Nakapwan | 2 nd Member |

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| 4. Hon. Samwel Aliwo | 3 rd Member |
| 5. Mr. Patrick Tioko Eng'ori | Director, Legislative Services |
| 6. Ms. Roseline Aite | Deputy Director, Legislative Services |
| 7. Mr. Jacob Lokwee | Principal Clerk Assistant |

Honorable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to the delegation and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

b) On Amendments to the Senate Standing Orders to Provide for Questions and Statements and for Cabinet Secretaries to Appear Before the Senate to Respond to Questions

“Honourable Senators,

1. As you are aware, on Thursday, 23rd March, 2023, the Senate passed a Motion on the Fifth Report of the Procedure and Rules Committee and approved amendments to the Standing Orders, whose effect was to provide a framework for the processing of Questions. The approval of the 5th Report of the Procedure and Rules Committee on the amendments to the Senate Standing Orders paves the way for Cabinet Secretaries to appear before the Senate to respond to Questions.
2. In approving the amendments to the Standing Orders, the Senate also resolved that the amendments shall take effect from Tuesday, 11th April, 2023, and further varied the hours of meetings to provide for sittings on Wednesday morning. In this regard, I wish to guide the Senate on the procedure in which Questions shall be considered.

Honourable Senators,

3. As is the standard practice, a Senator who wishes to ask a Question will be required to deliver a signed copy of the Question to the Clerk. The Clerk shall process the Question in line with Standing Order 51B and submit the notification to my office for approval. Upon approval, the Clerk will be required to convey the Questions to the relevant Cabinet Secretary.
4. The Clerk will also submit a list of questions to be asked to the Senate Business Committee, which shall schedule a date and time for appearance of the relevant Cabinet Secretary before the Senate to respond to the Question. The Clerk will be required to give a Cabinet Secretary at least seven days' notice before the date appointed for the Cabinet Secretary to appear before the Senate.

5. Upon approval of the schedule by the Senate Business Committee, the Clerk will be required to publish on the parliamentary website and circulate to Senators a schedule of all Questions not later than the Friday preceding the day upon which the Question is to be responded to by the relevant Cabinet Secretary. A Cabinet Secretary will in turn be required to provide a physical and electronic copy of a response to a Question at least twenty-four hours before appearing before the Senate.

Honourable Senators,

6. Questions shall be dispensed with in the manner approved by the Senate Business Committee and as scheduled in the Order Paper. A Senator shall only ask his or her Question on the day it is scheduled in the Order Paper. Senators will be required to address Questions to Cabinet Secretaries pursuant to Standing Order 51C(1), in the manner approved by the Speaker. It shall be out of order to introduce a new Question on the floor of the Senate. Similarly, Questions that are not listed in the Order Paper and therefore not approved by the Speaker, and accordingly not scheduled by the Senate Business Committee, will not be permitted on the floor of the Senate, and their introduction will be out of order.
7. Pursuant to Standing Order 51C (2), a Senator may, in writing, nominate another Senator to ask a Question on his or her behalf where the Senator shall be absent on the day on which the Question is listed. However, a Question will be dropped in the event of the absence of a Senator without written notice to the Speaker. The Speaker may allow withdrawal of a Question by a Senator, for reasons stated.
8. After a Cabinet Secretary has responded to a Question, the Standing Orders gives the Speaker power to allow the Senator who asked the Question to raise a maximum of two (2) supplementary questions that relate to the original Question. Any other Senator will be allowed to ask one (1) supplementary Question.

Honourable Senators,

9. Concerning access to the Chamber by Cabinet Secretaries, and appreciating the limited sitting capacity of the Chamber, I have designated the place adjacent to the Chair on the right, as the appropriate place where Cabinet Secretaries will make responses to Questions. This is the usual place where Administration of Oath ordinarily takes place. The Cabinet Secretary may be accompanied by a maximum of three (3) officers from the Ministry, who will take seats to the right of the Chair reserved for public officers.
10. The Question framework obviously demands that the management of the time of the Senate is done prudently. In this respect, I direct that each Question scheduled shall not take more than twenty (20) minutes. This

should account for the original Question and the supplementary questions. Cabinet Secretaries will be required to be succinct in making their responses to Questions, but may submit to the Clerk, documents in support of oral responses, which will be deemed to have been Tabled upon receipt by the Clerk.

11. Pursuant to Standing Order 51C(6)(c), Cabinet Secretaries may make statements or provide reports to the Senate on other matters pertaining to their respective dockets with the leave of the Speaker. In this respect, and appreciating the limitation of time, a Cabinet Secretary may address the Senate on only one matter for not more than twenty (20) minutes.
12. Whenever a Cabinet Secretary addresses the Senate, the Cabinet Secretary shall be heard in silence. Interventions and Points of Order will not be entertained when the Cabinet Secretary is making his/her submission. Senators may react to the submission by Cabinet Secretaries through supplementary questions. I therefore implore upon Honourable Senators to acquaint themselves with Standing Order 98. Unnecessary interruption of a Cabinet Secretary in the course of his or her submission to the Senate will not be entertained.

Honourable Senators,

13. In light of the new Standing Orders, there have been concerns as to the power of Committees to cause the attendance of Cabinet Secretaries to answer matters for which a Cabinet Secretary is responsible. Concern has been expressed that the new Standing Orders have taken away the requirement for Cabinet Secretaries to appear before Select Committees. The Standing Orders as a whole are facilitative and procedural in their nature, and they are not the basis for which a substantive right, privilege or requirement is conferred or otherwise taken away. These, are the domain of the Constitution and statute law and not the Standing Orders.
14. It must be made clear that the amendments to the Standing Orders to provide for Cabinet Secretaries to respond to Questions in the House does not override or overturn the requirement of Article 153 (3) and (4) (b) of the Constitution. Cabinet Secretaries will still have the obligation to adhere to this Article, when required by Committees of the Senate. Further, Article 125 of the Constitution has similarly not been overturned by the new Standing Orders. Therefore, the House or any of its Committees may invoke its provisions in the discharge of the Mandate of the Senate.

Honourable Senators,

15. Given that this is a new process, I appeal for utmost cooperation from Senators. I urge Senators to familiarize themselves with the new procedure ahead of its application upon resumption of sittings after the Short Recess pursuant to the Calendar. It is my sincere hope that the Questions tool,

aside from Statements, Petitions, Motions and Bills, will enhance our oversight mandate and the Executive's accountability to Parliament and by extension, the people.

The House is accordingly guided.

I thank you."

c) Visiting students from Universities Students' Association in Kisumu County

"Honourable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, visiting students from Universities Students' Association in Kisumu County. The delegation comprises thirty-five (35) students who are in the Senate for a one-day academic exposition.

Honourable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you."

d) Visiting Teachers and Students from the Lenana School in Nairobi City County

"Honourable Senators,

In the public gallery, we have ninety (90) students, accompanied by three (3) teachers from the Lenana School in Nairobi County who are in the Senate on an education tour.

Honorable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you."

e) Visiting Teachers and Students from Kiamugumo Girls' High School in Kirinyaga County

“Honourable Senators,

In the public gallery, we have thirty-one (31) students, accompanied by two (2) teachers from Kiamugumo Girls' High School in Kirinyaga County who are in the Senate on an education tour.

Honorable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

f) On Visiting Teachers and Students from Lorna Laboso Memorial Girls' Secondary School in Bomet County

“Honourable Senators,

In the public gallery, we have sixty-four (64) students, accompanied by seven (7) teachers from Lorna Laboso Memorial Girls' Secondary School in Bomet County who are in the Senate on an education tour.

Honorable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

5. PAPER LAID

The following Paper was laid on the Table of the Senate: -

Report of the Select Committee on Delegated Legislation on the Statutory Instruments (Exemption from Expiry) Regulations, 2022.

(The Chairperson, Select Committee on Delegated Legislation)

6. NOTICE OF MOTION – ADJOURNMENT OF THE SENATE TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE RELATING TO THE DETERIORATING SECURITY SITUATION IN THE COUNTRY

Raising a point of order, the Senator for Migori County (Sen. Eddy Oketch, MP), sought leave to move a Motion for the adjournment of the Senate to discuss a

definite matter of urgent national importance, pursuant to Standing Order 37, namely, the deteriorating security situation in the Country.

And there being the requisite number of senators rising in support of the claim;

Thereupon, the Speaker nominated thirty minutes past five o'clock, as the time when the Motion would be moved.

7. NOTICES OF MOTION

i.) **ON AMENDMENT OF THE SENATE CALENDAR FOR THE SECOND SESSION**

(Senate Majority Leader)

THAT, notwithstanding the Resolution of the Senate on the approval of the Senate Calendar made on 16th February, 2023 and noting the Resolution of the Senate made on Thursday, 23rd March, 2023, on the Fifth Report of the Procedure and Rules Committee (PRC) on the amendments to the Standing Orders of the Senate; and pursuant to Standing Order 32(4), the Senate resolves to amend its Calendar (Regular Sessions) of the Senate for the Second Session, 2023 to provide for morning sittings on Wednesdays pursuant to Standing Order 34.

ii.) **ON ACCELERATING THE IMPLEMENTATION OF SUSTAINABLE DEVELOPMENT GOALS (SDGs)**

(Sen. Catherine Mumma, MP)

AWARE THAT, the 2030 agenda for Sustainable Development adopted by all United Nations Member States in 2015 provides a shared global blueprint aimed at ending poverty, protecting the earth's environment and climate and ensuring that people everywhere enjoy peace and prosperity;

APPRECIATING THAT, the implementation of the 2030 agenda for Sustainable Development in Kenya started by the official launch of the Sustainable Development Goals (SDGs) in Kenya in 2016 followed by the development of the Country SDGs roadmap to guide the transition from Millennium Development Goals to SDGs and the mainstreaming of the SDGs at both the National and County Governments;

CONCERNED THAT, the implementation of the 2030 agenda for sustainable Development in Kenya has been affected negatively by shocks such as continued drought since 2019 in Kenya and around the world, serious invasion by desert locusts, the COVID-19 pandemic and other public health calamities and the current strained state of the Kenyan economy;

NOW THEREFORE, the Senate resolves that the State Department for Economic Planning in consultation with the Council of Governors comes up with reviewed implementation roadmaps for the two levels of Government taking into account the shocks that have impeded or any other that are likely to impede the implementation of the 2030 agenda for Sustainable Development.

iii.) **ON ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON DELEGATED LEGISLATION ON ITS CONSIDERATION OF THE STATUTORY INSTRUMENTS (EXEMPTION FROM EXPIRY) REGULATIONS, 2022**

(The Chairperson, Select Committee on Delegated Legislation)

THAT, the Senate adopts the Report of the Select Committee on Delegated Legislation on its consideration of the Statutory Instruments (Exemption from Expiry) Regulations, 2022, laid on the Table of the Senate on Tuesday, 28th March, 2023; and that pursuant to Section 18 of the Statutory Instruments Act, resolves to **annul** in its entirety, the Statutory Instruments (Exemption from Expiry) Regulations Legal Notice No. 217 of 2022.

8. **STATEMENTS**

a) Pursuant to Standing Order No. 53(1)

- i) The Senator for Vihiga County (Sen. Godfrey Osotsi, MP) sought a Statement from the Standing Committee on Finance and Budget regarding the disbursement of funds to County Governments.
- ii) The Senator for Nairobi City County (Sen. Edwin Sifuna, MP) sought a Statement from the Standing Committee on Land, Environment and Natural Resources regarding illegal and irregular misallocation of public community land in Buruburu Phase 5.
- iii) The Senator for Nairobi City County (Sen. Edwin Sifuna, MP) sought a Statement from the Standing Committee on Land, Environment and Natural Resources regarding claims of illegal allocation of public utility plots and open spaces in Woodley Estate in Nairobi City County.
- iv) Nominated Senator (Sen. Esther Okenyuri, MP), on behalf of the Senator for Embu County (Sen. Alexander Mundigi, MP) sought a Statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the state of affairs at the Horticultural Crops Directorate under the Agriculture and Food Authority (AFA).
- v) Nominated Senator (Sen. Esther Okenyuri, MP), on behalf of the Senator for Embu County (Sen. Alexander Mundigi, MP) sought a Statement from the Standing Committee on Agriculture, Livestock and Fisheries

concerning the state of Macadamia nut production and marketing in Kenya.

- vi) The Senator for Kirinyaga County (Sen. James Murango, MP) sought a Statement from the Standing Committee on Labour and Social Welfare concerning the state of labour export from Kenya.
- vii) The Senator for Kirinyaga County (Sen. James Murango, MP) sought a Statement from the Standing Committee on Trade, Industrialization and Tourism regarding the marketing of Kenyan produce in foreign markets.

b) Pursuant to Standing Order No. 57(2)

The Senate Majority Leader made a Statement on the occasion of the ten-year anniversary of the Senate. Stating that ten years ago, on March 28th, 2013, the Senate of Kenya held its inaugural sitting, technically marking the 2nd Senate (after the 1st Senate under the Independence Constitution was disbanded in 1967) and 1st Senate under the 2010 Constitution.

Thereupon, he stated that the Second Senate, under the leadership of Speaker, Rt. Hon. Ekwere Eghuro, EGH, MP, marked one of the most significant milestones in the country's constitutional history as the coming into being of the Second Senate heralded a new dawn for the legislature, which was then unicameral, and was now comprising the National Assembly and the Senate. He further informed the Senate that the term of the Second Senate ran from 28th March, 2013 to 15th June, 2017 and that the Senate was sailing in uncharted waters, but through the leadership of the Speaker and leadership team, guided by unity of purpose and the will to actualize devolution, they rapidly crafted the framework of transacting and administering the Senate. He added that the Senate began its mandate by fighting for space and place in the new organization of Government, including its relationship with the National Assembly in executing its mandate as contained in Article 96 of the Constitution.

Further the term of the Third Senate which commenced on 31st August, 2017, represented the consolidation stage of the Senate and highlighted some of its achievements which included the determination of matters such as the admissibility and constitutionality of the powers of a Deputy Governor in running county government business where the Governor is charged in court or is away for extended periods due to other reasons as well as measures to resolve the stalemate on delayed enactment of the Division of Revenue Bill and its impact on county finances besides the implication of the High Court judgment on Constitutional Petition No. 284 of 2019 that challenged the laws that were enacted unprocedurally.

It was in the Third Senate that the inaugural sittings of the Senate outside Nairobi, commonly dubbed “*Senate Mashinani*”, begun.

The Majority Leader further reminded Senators that under the principles of devolved government, county governments were expected to receive reliable revenues to enable them govern and deliver services effectively and that one of the major achievements of the Third Senate was the fight for increased resources for the Counties. He averred that this led to consistent increase in shareable revenue from KShs. 190 billion for FY 2013/2014 to KShs. 370 billion for FY 2022/23, representing a consistent annual average growth of 35%.

The Majority Leader then lauded the efforts of former Senators such as Governor (Prof.) Anyang' Nyong'o, EGH, MP (Kisumu County), Governor James Orengo, SC, EGH, MP (Siaya County), Governor Mutula Kilonzo Jnr., CBS, MP (Makueni County), Cabinet Secretary, Interior and National Administration Sen. (Prof.) Kithure Kindiki, Cabinet Secretary, Ministry of Roads and Transport, Sen. Kipchumba Murkomen, EGH, MP, National Assembly Speaker, Rt. Hon. Sen. Moses Wetangula, EGH, MP, Hon. Martha Wangari, MP (Gilgil Constituency), Sen. Kiraitu Murungi, EGH, MP, Sen. Fatuma Dullo, MP, Sen. (FCPA) Billow Kerrow, MP, Sen. Boni Khalwale, CBS, MP and Sen. (Dr.) Agnes P. Zani, CBS, MP who, during the decade, had espoused and entrenched Devolution and the place of the Senate through their legislative work. The Majority Leader urged Senators to follow the example of these Senators in their various assignments in the Senate.

Lastly, the Leader remembered and mourned the loss of colleague Senators who passed on in the decade, including Sen. Mutula Kilonzo MP (Makueni County), Sen. G.G Kariuki, MP (Laikipia County), Sen. Gerald Otieno Kajwang', MP (Homabay County), Sen. Ben Okello, MP (Migori County), Sen. Yusuf Haji, MP (Garissa County), Sen. Boniface Kabaka, MP (Machakos County), Sen. Victor Prengei, MP (Nominated Senator), and Sen. (Dr.) Wilfred Machage, MP (Migori County).

He concluded by lauding the efforts of the Clerk of the Senate, Mr. Jeremiah Nyegenye, CBS and staff of the Senate, who through the three terms of the Senate had worked to entrench the place of the Senate and ensured that Senators were facilitated to undertake their legislative mandate of representation, oversight and legislation.

9. **ADJOURNMENT OF THE SENATE TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE ON THE STATE OF INSECURITY IN THE COUNTRY**

Motion made and Question proposed: -

THAT, pursuant to Standing Order 37, the Senate do now adjourn to discuss a definite matter of urgent national importance, namely, the state of insecurity in the country.

(Sen. Eddy Oketch, MP)

Debate arising;

10. **PROCEDURAL MOTION – EXTENSION SITTING TIME OF THE SENATE.**

Rising on a Point of Order pursuant to Standing Order 34(5), the Senator for Narok County (Sen. Ledama Olekina, MP), claimed to move :-

THAT, the Senate do extend its sitting time today, Tuesday, 28th March, 2023 beyond 6:30 p.m. until all Senators wishing to contribute to the adjournment Motion had contributed.

(Sen. Ledama Olekina, MP)

Debate arising;

There being no other Senator wishing to contribute;

Before putting the Question the Temporary Speaker (Sen. Veronica Maina, MP) ruled that the motion does not affect Counties;

Rising on a Point of Order pursuant to Standing Order 87(b), the Senate Majority Leader claimed a Division;

And there being fifteen (15) Senators in support of the claim;

The Temporary Speaker (Sen. Veronica Maina, MP), directed that the House proceeds to a Division;

The Temporary Speaker (Sen. Veronica Maina, MP), directed that a roll call division be taken, pursuant to Standing Order 84(3), and directed that the division bell be rung for two minutes;

Upon the expiry of the two minutes, the Temporary Speaker (Sen. Veronica Maina, MP) directed that the doors be locked and the bars be drawn, pursuant to Standing Order 88(3);

The names of the Tellers were announced as follows:

1. Sen. James Murango, MP – AYES
2. Sen. Eddy Gicheru Oketch, MP – NOES

The Temporary Speaker (Sen. Veronica Maina, MP) put the Question and directed the Clerk to call out the names of Senators in alphabetical order;

The results of the Division were as follows: -

AYES – 11

NOES - 11

ABSTENTION – 0

AYES

1. Sen. Asige, Crystal Kegehi, MP
2. Sen. Maanzo, Daniel Kitonga, MP
3. Sen. Mogeni, Erick Okongó, MP
4. Sen. Montet, Betty Batuli, MP
5. Sen. Mumma, Catherine Muyeka, MP
6. Sen. Oketch, Eddy Gicheru, MP
7. Sen. Okoiti, Andrew Omtatah,MP
8. Sen. Olekina, Ledama, MP
9. Sen. Osotsi, Godfrey Atieno,MP
10. Sen. Sifuna, Edwine Watanya,MP
11. Sen. Syengo, Beth Kalunda, MP

NOES

1. Sen. Cheruiyot, Aaron Kipkirui, MP
2. Sen. Khalwale, Boni, MP
3. Sen. Kipkiror, William Cheptumo, MP
4. Sen. Maina, Veronica Waheti,MP
5. Sen. Mungatana, Danson Buya,MP
6. Sen. Murango, James Kamau, MP
7. Sen. Mutinda, Maureen Tabitha, MP
8. Sen. Okenyuri, Esther Anyieni,MP
9. Sen. Seki, Lenku Ole Kanar, MP
10. Sen. Wafula, David Wakoli, MP
11. Sen. Wakili, Hillary Kiprotich Sigei, MP

Pursuant to Article 122(2)(b) of the Constitution;

Question negatived.

Debate interrupted resumed;

And the time being thirty minutes past six O'clock, the Speaker interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

11. **SENATE ROSE** – at thirty minutes past six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, March 29, 2023 at 2:30 p.m.*