



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Wednesday, 4th December 2024

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Hon. Members, there is no quorum in the House. Serjeant-at-Arms, ring the Quorum Bell.

(The Quorum Bell was rung)

Order, Hon. Members, we now have a quorum to transact Business. Clerk-at-the-Table, proceed.

(Hon. Major (Rtd) Abdullahi Sheikh and several other Members walked into the Chamber)

Members on their feet, take your seats. Hon. Bashir, take the nearest seat.

COMMUNICATION FROM THE CHAIR

DELEGATION FROM THE PAN-AFRICAN PARLIAMENT

Hon. Speaker: Hon. Members, I am pleased to introduce to you a delegation comprising Members of the Committee on Rural Economy, Agriculture, Environment and Natural Resources of the Pan-African Parliament (PAP) who are seated in the Speaker's Row. They are:

1. The Hon. Sakata Garry, MP – Committee Chairperson (DRC).
2. The Hon. Juliet Achayo Lodou, MP – Member (Uganda).
3. The Hon. Menyani Zulu, MP - Member (Zambia).
4. The Hon. Awatef Cheniti, MP - Member (Tunisia).

Notably, our very own Hon. Esther Muthoni Passaris, the Member of Parliament for Nairobi City County, is also a Member of the Committee. The delegation is in the country to attend a technical consultation workshop on the model law on soil management in Africa. Four officers from the Pan-African Parliament accompany the delegation.

On my behalf and indeed on behalf of the House, I welcome the delegation to the National Assembly and wish them fruitful engagements during their stay in the country.

Thank you. Hon. Esther.

(Applause)

Hon. Esther Passaris (Nairobi City County, ODM): Thank you, Hon. Speaker, for giving me this opportunity. Together with Hon. Majimbo Kalasinga, Hon. Rahab Mukami, and Sen. Mungatana and Sen. (Prof.) Kamar from the Senate, I am very proud to be a Kenyan

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Member of Parliament and to serve in the Pan-African Parliament. It is an honour to represent Kenya at the Pan-African Parliament. I am a Member of the Committee on Rural Economy, Agriculture, Environment and Natural Resources. I am very grateful to the Chair and the Pan-African Parliament for agreeing to host a Committee consultation on the model law on soil in Nairobi, Kenya. We welcome them all.

The model law on soil management for Africa is very important. Very many experts will make presentations. We are hosting the consultation at the PrideInn Azure. It would be nice if Members popped in, especially those in the Departmental Committee on Agriculture and Livestock.

What is the importance of managing our soil? It is a fact that soil has been contaminated over the years. The many things we have put in the soil have harmed it. They are not giving us the nutritional benefits we need. As the Pan-African Parliament, we come up with model laws in all areas. We bring in the best experts to present to us. Some of those experts will be presenting to the Committee over the next two days. We will be looking at climate change, soil health, and how to pave the way for resilient ecosystems and sustainable development for Africa.

We will also look at the Africa Union Legal Policy Framework on Soil Management. We will look at soil management and its impact on food, nutrition, and security. We will explore the United Nations Legal and Policy Frameworks. We will also be looking at proposed laws on soil management, how to domesticate them to our regional standards, genesis processes, and roadmaps.

Hon. Speaker: Wind up, Hon. Esther.

Hon. Esther Passaris (Nairobi City County, ODM): Let me conclude. Once we have adopted it, member states will adopt it.

Thank you for giving me the opportunity. Welcome to the Committee of Rural Economy in the Pan-African Parliament.

Hon. Speaker: Hon. Majimbo, you have one minute.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you very much. Precisely, I will take one minute.

As a Member of Parliament representing Kenya in that very honourable Parliament in Midrand, South Africa, I welcome my colleagues to this very important Parliament in the very important state called Kenya. So far, they can see for themselves that it is the best Parliament in Africa. The laws we make here go down to the people.

I will not speak much. It is just a matter of welcome.

Hon. Speaker: Thank you.

Next Order by the Deputy Leader of the Majority Party.

PAPERS

Hon. Owen Baya (Kilifi North, UDA): I beg to lay the following Papers on the Table: Reports of the Auditor-General and financial statements for the years ended 30th June 2024 and the certificates therein in respect of:

1. Kenya Cooperation and Partnership Facility (KCPF) Project No.KE/FED 2019/041-712, Credit No.FED/2021/423-175 – State Department for Devolution.
2. Kenya Electricity Expansion Project (CR No.1487P) – Rural Electrification and Renewable Energy Corporation.
3. Horn of Africa Getaway Development Project IDA/P161305, Credit No.6768-KE – Information and Communication Technology (ICT) Authority;

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4. Office of the Director of Public Prosecutions Staff Housing Mortgage and Car Loan Scheme.
5. Office of the Prime Cabinet Secretary.
6. National Council for Nomadic Education in Kenya– State Department for Basic Education.
7. Emergency Locust Response Project (IDA Credit NO 6648 and 70530-KE) – State Department for Agriculture.
8. Nairobi Outer Ring Road Improvement Project (Loan No.21001500144) – Kenya Urban Roads Authority.
9. Rural Electricity in Five Regions Project (Credit No.11/597, Credit No.1407P) – Rural Electrification and Renewable Energy Corporation.
10. Water Sector Development Programme – Lake Victoria South (Kericho, Kisii, Nyamira and Litein) Loan No.BMZ-No.2010 65 861 and Grant No.BMZ 2010 70 457– Lake Victoria South Water Works Development Agency.
11. Lake Victoria Water Supply and Sanitation Programme Phase II Project No. P-Z1-EAO-004 (ADF Grant No.2100155019967) – Lake Victoria South Water Works Development Agency.
12. Global Fund – to Reduce Malaria Incidences and Deaths by at least 75 per cent of the 2016 levels by 2023 Working Towards a Malaria-Free Kenya-KEN-M-TNT No.2064 – Ministry of Health.
13. Global Fund - To Contribute to Achieving Vision 2030 Through Universal Access to Comprehensive HIV Prevention, Treatment and Care Programme-KEN-H-TNT No.2065– Ministry of Health.
14. Technical Support to the French Desk of the National Treasury (Project Grant No.AFD CKE 1204 01E) For the (9) Months Period Ended 30th June 2024– the National Treasury.
15. Northern Collectors Phase 1 and Additional Rehabilitation and Development of the Network Project (Credit No.CKE 1074 01 K) – Athi Water Works Development Agency.
16. Promotion of Youth Employment and Vocational Training in Kenya (Phase II) Project Loan No.BMZ 2018 65 120 – State Department for Technical Vocational Education and Training.
17. Global Fund HIV/AIDS Project Grant Number KEN-H-2065– National Syndemic Diseases Control Council;
18. Promotion of Youth Employment Through Scholarships Phase II (“Wings to Fly IV”) Project Grant No.BMZ-No.2018 67 399– State Department for Technical Vocational Education and Training (SDTVET).
19. National Drought Emergency Fund– Year Ended 30th June 2024.
20. East Africa Skills for Transformation and Regional Integration Project (EASTRIP) (IDA LOAN No. 6334-KE) – Meru National Polytechnic.
21. Eastern and Southern Africa Higher Educational Centres of Excellence (ACE II) Project (Credit No.5798-KE) – State Department for Higher Education and Research.
22. Africa Centre of Excellence (ACEII) in Phytochemicals, Textiles and Renewable Energy (PTRE) Project (IDA Credit No.5798-KE) – Moi University.
23. Support to Technical and Vocational Educational Training and Entrepreneurship (TVETE Project Phase III) (Loan No.2100150042254) – State Department for Technical, Vocational Education and Training.

I thank you, Hon. Speaker, and I beg to lay.

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Hon. Speaker: Thank you, Hon. Owen. Vice Chairperson Committee on Powers and Privileges, Hon. Lekuton. Where is he? I donated my authority to you. That is a Committee chaired by the Hon. Speaker. He has just been here. Are your papers ready? Tomorrow morning?

Hon. Joseph Lekuton (Laisamis, UDM): Yes, tomorrow morning, Hon. Speaker.

Hon. Speaker: Excellent.

Hon. Joseph Lekuton (Laisamis, UDM): Thank you.

Hon. Speaker: Chairperson of the Departmental Committee on Administration and Internal Security, Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I beg to lay the following paper on the Table:

Report of the Departmental Committee on Administration and Internal Security on the Budget Implementation for the Financial Year 2023/2024 for the following State Departments:

- (a) Vote 1011 – Executive Office of The President.
- (b) Vote 1012 – Office of the Deputy President.
- (c) Vote 1013 – Office of the Prime Cabinet Secretary
- (d) Vote 1014 – State Department for Parliamentary Affairs.
- (e) Vote 1015 – State Department for Performance & Delivery Management
- (f) Vote 1016 – State Department for Cabinet Affairs.
- (g) Vote 1017 – State House.
- (h) Vote 1024 – State Department for Immigration & Citizen Services.
- (i) Vote 1025 – National Police Service.
- (j) Vote 1026 – State Department for Internal Security & National Administration.
- (k) Vote 2101 – National Police Service Commission.
- (l) Vote 2151 – Independent Policing Oversight Authority.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Sports and Culture. Hon. Caroli Omondi, are you from that Committee? Are you ready? Give him the microphone.

Hon. Caroli Omondi (Suba South, ODM): Hon. Speaker, I beg to lay the following paper on the Table:

Report of the Departmental Committee on Sports and Culture on the Budget Implementation Monitoring for the Financial Year 2023/2024 for the following State Departments:

- (a) Vote 1132- State Department for Sports.
- (b) Vote 1134- State Department for Culture, the Arts and Heritage.
- (c) Vote 1135- State Department for Youth Affairs and Creative Economy.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Caroli. Chairperson of the Mediation Committee on Conflict of Interest Bill. Hon. Murugara, is this you?

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Speaker. I beg to lay the following paper on the Table:

Report of the Mediation Committee on the Conflict of Interest Bill (National Assembly Bill No.12 of 2023)

I beg to lay.

Hon. Speaker: Thank you. Next Order.

NOTICES OF MOTIONS

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Chairperson of the Departmental Committee on Administration and Internal Security.
Hon. Tongoyo.

ADOPTION OF REPORT ON BUDGET IMPLEMENTATION MONITORING
FOR FY 2023/2024 FOR VARIOUS STATE DEPARTMENTS

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Administration and Internal Security on Budget Implementation for Financial Year 2023/2024 for the following State Departments, laid on the Table of the House on Wednesday, 4th December 2024:

- (a) Vote 1011 – Executive Office of The President.
- (b) Vote 1012 – Office of the Deputy President.
- (c) Vote 1013 – Office of the Prime Cabinet Secretary
- (d) Vote 1014 – State Department for Parliamentary Affairs.
- (e) Vote 1015 – State Department for Performance & Delivery Management
- (f) Vote 1016 – State Department for Cabinet Affairs.
- (g) Vote 1017 – State House.
- (h) Vote 1024 – State Department for Immigration & Citizen Services.
- (i) Vote 1025 – National Police Service.
- (j) Vote 1026 – State Department for Internal Security & National Administration.
- (k) Vote 2101 – National Police Service Commission.
- (l) Vote 2151 – Independent Policing Oversight Authority.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Chairman.

Hon. Caroli Omondi, Chairperson of the Departmental Committee on Sports and Culture.

ADOPTION OF REPORT ON BUDGET IMPLEMENTATION MONITORING
FOR FY 2023/2024 FOR VARIOUS STATE DEPARTMENTS

Hon. Caroli Omondi (Suba South, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Sports and Culture on Budget Implementation and Monitoring for the Financial Year 2023/2024 for the following State Departments laid on the Table of the House on Wednesday, 4th December 2024.

- (a) Vote 1132- State Department for Sports.
- (b) Vote 1134- State Department for Culture, the Arts and Heritage.
- (c) Vote 1135- State Department for Youth Affairs and Creative Economy.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you.

Hon. Murugara, Chairperson of the Mediation Committee on Conflict of Interest Bill.

APPROVAL OF THE MEDIATED VERSION OF THE CONFLICT OF INTEREST BILL

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(National Assembly Bill No.12 of 2023)

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150(3), this House adopts the Report of the Mediation Committee on the Conflict of Interest Bill (National Assembly Bill No.12 of 2023), laid on the Table of the House on Wednesday, 4th December 2024 and approves the Mediated version of the Conflict of Interest Bill (National Assembly Bill No.12 of 2023).

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

QUESTIONS AND STATEMENTS

MEMBERS' GENERAL STATEMENT

Hon. Speaker: Major (Rtd) Bashir Abdullahi.

THE 4TH PASTORALIST LEADERSHIP SUMMIT IN WAJIR COUNTY

Hon. Major (Rtd) Abdullahi Sheikh (Mandera North, UDM): Thank you, Hon. Speaker. This is a general statement regarding the Fourth Pastoralist Leadership Summit to be held in Wajir County. Pursuant to Standing Order 43(1), I rise to make a Statement regarding the upcoming Pastoralist Leadership Summit scheduled to be held from 8th to 10th December 2024 in Wajir County.

The Pastoralist Parliamentary Group (PPG) is a Caucus comprising all Members of Parliament from the pastoralist counties with the objective of mainstreaming the pastoralists' agenda in the national political and policy discourse. Since its inception in 2013, the Pastoralist Leadership Summit has served as a unique forum that brings together political leaders at both the national and county levels. It provides a platform for dialogue on the key issues affecting pastoralist communities, fosters national political consensus and seeks opportunities to align national and county policies with the aspirations of pastoralist areas.

The PPG has organised its 4th Pastoralist Leadership Summit to be held from 8th to 10th December 2024, in Wajir Girls Secondary Schools, Wajir Town, under the theme: "Unlocking Policy and Financing Bottlenecks in the Pastoralist Counties in Kenya." This year's summit aims to address critical challenges and unlock the full potential of pastoralism in Kenya. We will focus on key areas that impact pastoralist development, including climate change financing and resilience-building; community land rights; foundations of development: enhancing peace, security, infrastructure, human capital development and public participation in Kenya's drylands; and integrity and accountability: addressing the stereotypes and challenges faced by northern Kenya and promoting transparency.

All delegates are expected to arrive at the Summit venue on 8th December 2024, where the Rt. Hon. (Dr) Moses Wetang'ula will officially open the Summit during a reception dinner that evening. His Excellency, the President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces, His Excellency (Dr) William Ruto, will close the Summit on the afternoon of 10th December 2024.

Allow me to invite all Hon. Members to join us at this important gathering, where we will engage in critical discussions to strategise on overcoming financing bottlenecks and chart

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a path for sustainable development in pastoralist regions. We look forward to your participation as we work together to advance the interests of the pastoralist communities across Kenya.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Bashir. I for sure will be there with you. Hon. Raso, do you want to speak on the same issue?

Hon. Ali Raso (Saku, UDA): Yes.

Hon. Speaker: Go ahead.

Hon. Ali Raso (Saku, UDA): Thank you very much Hon. Speaker. We are grateful you have committed to come and open the 4th PLS event in Wajir. I also want to thank the Clerk of the National Assembly. For the first time, we have an active secretariat- clerks assigned to the pastoralist group.

Although the PPG is the major Caucus in this House, it has not had serious traction in terms of articulating the issues affecting the pastoral people of this Republic. Through the Pastoralist Leadership Summit, we can come together and tell Kenyans and the greater world about the challenges and opportunities that will likely be there in the pastoral areas. The issue of climate change, particularly in terms of drought and floods, is the issue that affects the pastoralist group.

We also welcome our colleagues who have the means to attend the Summit in Wajir.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Saney.

Hon. Ibrahim Saney (Wajir North, UDA): Thank you, Hon. Speaker. The invite by Hon. Major Bashir to you and His Excellency the President on behalf of the pastoralist community is welcome. But as a frontier and a bigger swathe of this nation, we will be eager to listen to you as far as development is concerned. That area has suffered historical marginalisation, and as you come...

Hon. Speaker: Order. You are anticipating debate. You are out of order! You cannot welcome us on conditions.

Hon. Daudi.

Hon. Aden Mohammed (Wajir East, JP): Thank you, Hon. Speaker. I want to join the Chairman and the Patron of the PPG in welcoming Members of this August House to Wajir. I am doing so as a Member of Parliament who will host all of you when you come there. I will be there to welcome you to my Constituency.

I look forward to seeing you and all the Members of this House.

Thank you very much.

Hon. Speaker: Thank you. Give Hon. Yusuf the microphone.

Hon. Yusuf Adan (Mandera West, UDM): Thank you, Hon. Speaker. I also join the rest of the members in inviting you and His Excellency, the President, to the Pastoralists Leadership Summit. Pastoral land makes up over 70 per cent of our country, and we will showcase many future opportunities there.

Welcome, and I am confident you will want to return to this important event.

Hon. Speaker: Thank you.

The next Statement is by Hon. Fatuma Zainab. I received a letter nominating Hon. Mayaka to request it on her behalf.

REQUESTS FOR STATEMENTS

MEASURES FOR PROTECTION OF UNDERAGE CHILDREN FROM EXPOSURE TO ILLICIT ACTIVITIES

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Speaker.

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I wish to request a Statement regarding the protection of underage children from exposure to illicit activities.

Hon. Speaker: Hon. Mayaka, you should clarify that this Statement is on behalf of Hon. Zainab, as you are acting as a proxy.

(Laughter)

Hon. Irene Mayaka (Nominated, ODM): I apologise.

Hon. Speaker: Go on.

Hon. Irene Mayaka (Nominated, ODM): Hon. Speaker, on behalf of Hon. Fatuma Zainab, I wish to request a Statement regarding the protection of underage children from exposure to illicit activities.

Pursuant to the provisions of Standing Order 44(2)(c), I rise to request a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the protection of underage children from exposure to illicit activities.

Children, our nation's heritage, should be protected from exposure to activities that may ruin their future. Indeed, Article 53 of the Constitution places a civic duty on all of us to, among others, protect children from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment and hazardous exploitative labour. Unfortunately, there have been incidents of unscrupulous entertainment facilities, such as bars and casinos, admitting children and exposing them to adult activities.

Further, some children are either lured into non-hotel accommodation facilities, particularly those operated via online platforms, such as Airbnb, or they reserve rooms in person, disguised as adults and then indulge in illicit activities such as orgies, alcoholism and drug abuse.

Considering that children are on a long school holiday until January 2025, they face higher vulnerability and susceptibility to indulgence in illicit activities, which have far-reaching effects. Of concern is the likely rise in school drop-out rates in January 2025, resulting from pregnancies, drug addiction, general deviancy, and premature deaths from violent partying or *femicide*. This necessitates stricter enforcement of regulatory measures restricting admission of children to entertainment joints and accommodation facilities and surveillance on compliance.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

1. The measures that the security agencies have put in place to ensure strict enforcement of laws and regulations on admission to entertainment and accommodation facilities, including the action plan for impromptu spot-checks to ensure compliance by owners;
2. The measures put in place by privately-owned online accommodation facilities operated through platforms like Airbnb to verify the ages of guests and bar underage guests; and,
3. The regulatory framework for owners of online accommodation facilities to enforce decency and forestall illicit activities such as orgies, alcoholism and drug abuse in their facilities.

On behalf of Hon. Fatuma, I thank you, Honourable Speaker.

Hon. Speaker: Thank you, Hon. Irene Mayaka. Next is a Statement by Hon. Timothy Toroitich. Is he in the House? Give him the microphone.

RECENT APPROVAL OF AN INCREASE IN WATER TARIFFS BY
THE WATER SERVICES REGULATORY BOARD (WASREB)

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Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you.

Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation regarding the recent approval of an increase in water tariffs by the Water Services Regulatory Board (WASREB) following a request by Eldoret Water and Sanitation Company (ELDOWAS).

The Water Services Regulatory Board (WASREB) was established to protect consumers' interests and rights in water services by, amongst others, evaluating, recommending and approving water and sewerage tariffs to the county water services providers. However, on 4th October 2024, ELDOWAS adjusted the water and sewerage services tariff *vide* Gazette Notice No.12825 from Ksh35 to Ksh130, which translates to an increase of more than 300 per cent per cubic meter, approved by WASREB. The company justified the adjustment, citing the need to finance an additional eight community water projects in the area and to provide infrastructural upgrades of critical components in Chebera Dam, in Marakwet West Constituency. The adjustment of tariffs has caused anxiety amongst the residents and stands to negatively impact the economic growth of the Constituency due to financial strains.

It is against this background that I request a statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation on the following:

1. Report on the process leading to the approval, by the Water Services Regulatory Board, of tariff adjustments sought by ELDOWAS, including the criteria applied in authorising the adjustment;
2. Report on the public participation undertaken prior to the tariff adjustment, including compliance with the judgment issued in the Constitutional Petition No.16 of 2019 Murang'a County Government versus Murang'a South Water & Sanitation Co. Ltd & another; and
3. Measures being taken to review the tariff to mitigate the negative impact on consumers.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you. The request for a Statement by Hon. Fatuma is directed to the Departmental Committee on Administration and National Planning. I invite you, Hon. Tongoyo, to inform us when you will be ready because tomorrow is the last sitting day of this Session.

Hon. Gabriel Tongoyo (Narok West, UDA): We will respond on resumption.

Hon. Speaker: Okay. Member for Kesses.

Hon. Julius Rutto (Kesses, UDA): Thank you, Hon. Speaker. I wish to ride on the Statement sought by Hon. Timothy Toroitich regarding water tariffs, which pose a significant challenge to consumers, particularly in urban centres. Despite this issue, many taps remain dry due to insufficient water supply from companies like ELDOWAS.

One of the biggest challenges these companies face, often not disclosed in their financial statements, is the issue of non-revenue water. Unfortunately, the burden of this problem is passed on to consumers who are already facing water shortages. Recently, water tariffs have increased by 300 per cent, yet these companies, alongside the county governments, have not demonstrated any commitment to addressing the non-revenue water issue. Many existing water supply lines are outdated, leading to significant losses as water is wasted on the ground before reaching consumers.

As a result, some consumers receive water only twice a day. For instance, if a consumer was paying Ksh1,000 for water, they are now expected to pay Ksh6,000. This is punitive. I urge the concerned Ministry, in collaboration with WASREB, to pressure county governments

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and water companies to initiate a programme to renew water lines and reduce non-revenue water.

Lastly, the Kipkaren Water Project began over eight years ago and stalled. The Ministry must ensure that this project is completed to alleviate the reliance on the new Chebera and Ellegirini dams and guarantee sufficient water supply in Eldoret. Completing this project will help reduce the burden on consumers.

Thank you.

Hon. Speaker: Hon. DK.

Hon. David Kiplagat (Soy, UDA): Thank you, Hon. Speaker, for allowing me to contribute to the Statement requested by Hon. Timothy, the Member for Marakwet West.

We need to understand the dichotomy of Eldoret City. All the six constituencies come to Eldoret Town, and now these constituents will bear the burden of an unwarranted increase in water prices. Since WASREB is responsible for approving ELDOWAS's request, they should reconsider this decision. I question whether adequate public participation was conducted because we have never been consulted about the proposed tariff increase.

Our people are already struggling with high electricity and water tariffs. Before giving the nod to increasing the prices, government officials should be cognizant of the current economic conditions to avoid overburdening the citizens with these high costs.

This Statement should be taken seriously to protect our constituents and the people of Eldoret Town from being subjected to rates not discussed through proper public participation.

Thank you.

Hon. Speaker: Hon. Bowen, when do you bring the response? Is it after the long recess? Give him the microphone.

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker. We need a comprehensive answer to this issue. I promise to bring a response the first week after recess.

Hon. Speaker: Thank you. The Member for Bumula, Hon. Wamboka.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, I would like to bring to the attention of the House that I submitted a question to the Chairperson of the Departmental Committee on Labour concerning irregular employment practices at the Kenya Revenue Authority. The Chairperson committed to responding before we adjourn for the long recess. However, after checking the Order Paper, I have not seen any response. I request that you ask the Chairperson to explain himself.

Hon. Speaker: Hon. Karemba, is that your Committee?

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Speaker. I acknowledge that my Committee has not yet received the response to that Statement. I will follow up to ensure it is provided within the shortest time possible.

Hon. Speaker: The shortest time possible is tomorrow. Can you give a report tomorrow?

Hon. Muchangi Karemba (Runyenjes, UDA): Yes.

Hon. Speaker: Tomorrow afternoon.

Hon. Osoro, please hold on. What is it, Hon. DK? Give Hon. DK the microphone.

Hon. David Kiplagat (Soy, UDA): In the same breath, I requested a Statement from the Chairman of the Departmental Committee on Education and Research on the issues that were going on at the University of Nairobi. You had ordered vehemently that a statement be given on Tuesday, 3rd December 2024. Yesterday, I was here all day but did not hear about it. Today, I cannot trace the Chairman. We need to find out where that Statement is.

Thank you.

Hon. Speaker: Did I not see some news that the Committee was investigating the matter or something? Anyway, if Hon. Melly comes, we will ask him. If he does not, we will revisit it tomorrow. You can raise it tomorrow morning. Hon. Osoro, proceed.

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CLOSURE OF BOARDING PRIMARY SCHOOLS
BY THE MINISTRY OF EDUCATION

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Speaker. I also want to bring to the attention of this House and perhaps deliberate on something that happened this week when the Ministry of Education issued a directive for the closure of 348 boarding primary schools. Going through the report, while we appreciate the Government's effort to make sure that every boarding primary school is compliant, the directive may have come out of a panic reaction. What the Ministry did is that after the incident in Nyeri, which was very unfortunate, it sent its officers to boarding schools to inspect and confirm compliance. And then they gave directives. Some were given three months to comply, others a month, and others even two weeks.

What is more shocking is that the ministry officials did not go back after three months to confirm compliance by re-inspecting the affected schools so that they could decide whether to close them or not. They chose to use the inspection report done three months prior without re-inspecting. There is one particular case in my Constituency where I was apprised of an issue in a school called Metaburo Primary School, which has existed for several years. When the school officials brought to my attention what they wanted to be done in the school for compliance, we committed and invested in that school. They built a new dormitory and every required structure. However, I still saw the school on the list as closed because they had not re-inspected it.

Looking at the education challenges we face, such as issues of the Competency-Based Curriculum (CBC), Grade 9, people struggling with school fees, the holiday and economic challenges, parents are left confused about what to do when schools resume in January. They have been told that their children can now be day scholars. One of the reasons why students go to boarding schools is because of distance and the choice of school. You cannot tell a parent who lives in Nairobi and has his child in a Nyeri boarding school that they will now be going as a day scholar from Nyeri to Nairobi. There ought to have been a timeline, or more or less, for lack of a better word, a moratorium of the timeline so that they could comply gradually. We should not be making panic reactions when such incidents occur.

So, I bring this to the attention of this House so that we can deliberate and see what will happen to the affected parents in January. The Chairman of the Committee, I do not know whether he is here, should guide us and tell us what exactly should be done.

Thank you.

Hon. Speaker: I should be asking you where the Chairman is. You are the Whip of the Majority Party.

(Laughter)

Yes, Hon. Farah.

Hon. Farah Maalim (Dadaab, WDM): Hon. Speaker, I agree entirely with what the Whip of the Majority Party, Hon. Osoro, has said. As a matter of fact, in my Constituency, they did not evaluate the boarding schools for one reason or the other. Maybe they used security as a reason. They instructed their local education officers to do it, which they did very well, only to see now that those schools cannot be boarding schools anymore. The whole idea of having a boarding school in a pastoral nomadic society is so that the pastoralists who move around with their animals can have their children in a boarding school so that they can access education.

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In a whole sub-county with two wards, the only three boarding schools serving the pastoralist nomadic society have now been closed. We do not even know where they got the information from because the local and education administration reported that the boarding schools are compliant. Nobody knows where they got this information from. How can they close a school in Liboi, Damajale, or in a place called Kulan, where the parents are out there with their cows and camels, and one of them has over 400 students?

It is a pity that the Chairman of the Departmental Committee on Education and Research is not here. That is not good. That is an educational catastrophe that renders more than 1,000 young men and women unable to go ahead with their education for one reason or another. This is a very glaring thing. We put up those boarding schools so that the students can access them. The directive has to be reversed. I do not know how they are going to reverse it. At least, in the case of those nomadic pastoralist communities where they did not even go, and the ones that have complied like the one Hon. Osoro is talking about, they must reverse the directive immediately and reinstate them as boarding schools. That is the only way our children can access education.

Hon. Speaker: Hon. Johana Ng'eno. Give him the microphone.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Thank you, Hon. Speaker. As much as we might have issues with most of the departments in the Ministry of Education did the assessments, it is also time they put serious attention to not only the schools that have issues or boarding schools that may have some issues which can lead to problems to the students and the people who are studying there but also seriously consider matters of schools. There was a time when these people would create ways of approving schools to be registered based on the number of kilometres. There has to be a very good standard of assessing schools so that we do not close schools because of substandard dormitories or classrooms when the requirements of the people in an area need schools, classrooms and dormitories.

The Ministry of Education must have a very serious assessment body. I know they normally have what we call the Quality Assurance and Standards Officers (QASOs) or something of that sort. That body has to be renewed to look at very serious matters that make education very good.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. ole Sunkuli, or who is that? Not Hon. ole Sunkuli?

(Hon. Julius Sunkuli spoke off the record)

No, it is not you Hon. Sunkuli. It is Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Speaker. This outcry is real, more so in public schools. What is very critical is the timing. The timing was wrong because most of these public schools have been supported by the National Government Constituencies Development Fund (NG-CDF). And even when we look at the budgeting cycle, there is no way anybody would have factored that expenditure into the budget three months ago or today. I hope this could be suspended up to the next budget cycle and more so for public schools.

Why am I saying this? I have one school in my constituency which has been affected. The challenge is that the school already has pupils but has been told they cannot report in January. Hon. Farah said some of them had travelled a long distance to reach the schools. We are asking the Ministry to suspend this decision for some time so that we can factor the expenditure into the budget to prove the situation.

Thank you.

Hon. Speaker: Yes, on the same issue?

(Hon. Omar Mwinyi spoke off the record)

Something else? Then hold your horses. Hon. Rindikiri. On the same issue?

(Hon. Mugambi Rindikiri spoke off the record)

Go ahead.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Speaker. Let me contribute to this issue of standards among our education institutions, more so in the boarding primary and secondary schools. One of the problems I have encountered is the lack of a clear standard to qualify institutions to operate boarding schools or the basic minimum requirements that the Ministry is looking for to allow the operation of a boarding school.

First, I have been waiting for quality assurance officers to come and evaluate all boarding schools in my constituency. They have not come up to now. One reason why they have not come is because the Ministry has not facilitated them to do so. That means that the directive to evaluate all schools will not be implemented because of lack of uniformity and mobility, where the officers are not provided with transport. The directives being issued are not being implemented because of those reasons.

Secondly, there is also a lack of proper qualified personnel. Many constituencies lack quality assurance officers. They are using officials from the Ministry of Health. That means there is lack of qualified personnel to implement the directive to evaluate schools. Sometimes the Government issues a directive that cannot be implemented because it does not facilitate those tasked with the implementation.

Hon. Speaker: Leader of the Majority Party, the issue raised by the Whip of the Majority Party is very important. Advise the Chairperson of the Departmental Committee on Education to issue a Statement tomorrow afternoon to assure the country of the cogent reasons for closing many schools and the measures they are putting in place to mitigate the inconveniences and losses that the schools, parents, and students may suffer. Inform Hon. Melly to issue a preliminary Statement to assure parents, teachers and the country on that issue.

Hon. Shimbwa, Member for Changamwe.

Hon. Omar Mwinyi (Changamwe, ODM): Thank you, Hon. Speaker. I rise to plead with this House, especially with the Departmental Committee on Labour Chairman, who has just left. Perhaps he could be recalled. Sometime in February, I raised the matter of the employees of Ashton Apparel (EPZ) Ltd and Mombasa Apparel (EPZ) Ltd. Those two companies changed their names, and they wanted the employees to remain and forego all the benefits they had accrued in the years that they had worked. I thank God that through the intervention of this House, we got the employers to pay them their dues. However, because that matter was made possible by the union, the employer started...

Hon. Speaker: Hon. Shimbwa, had you requested for a Statement?

Hon. Omar Mwinyi (Changamwe, ODM): Yes, I did.

Hon. Speaker: Who was supposed to respond to it?

Hon. Omar Mwinyi (Changamwe, ODM): The Chairman of the Departmental Committee on Labour.

Hon. Speaker: Do not repeat what you requested. I will direct the Chairman of the Departmental Committee on Labour to give you a response tomorrow morning.

Hon. Members, allow me to recognise six members of staff from the Parliamentary Relations and Protocol Department of the Parliament of Ghana who are seated in the Speaker's Gallery. I join the House in welcoming them to the Parliament of Kenya.

The second group is staff from the Parliament of Namibia. I wish to introduce six members of staff from the Parliament of Namibia seated in the Speaker's Gallery. On my behalf and that of Hon. Members, I welcome them to our distinguished Parliament.

Next Order.

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM THE PROVISIONS OF STANDING ORDER 141(2)

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, noting that this House will be proceeding for a long recess from Friday, 6th December 2024 to Monday, 10th February 2025, in accordance with its Calendar, taking cognisance of the implications of the provisions of Standing Order 141(2) on specified Bills pending at the Second Reading stage of consideration in the House; now therefore, pursuant to the provisions of Standing Order 256 (Exemption of Business from the Standing Orders), this House resolves to exempt the following Bills from the provisions of Standing Order 141(2) (Lapse and Re-introduction of Bills) during the period of the Third and the Fourth Sessions—

1. The Political Parties (Amendment) Bill (National Assembly Bill No.35 of 2022);
2. The Fisheries Management and Development Bill (National Assembly Bill No.29 of 2023);
3. The Meteorology Bill (National Assembly Bill No.37 of 2023);
4. The Universities (Amendment) Bill (National Assembly Bill No.38 of 2023);
5. The Preservation of Public Security (Amendment) Bill (National Assembly Bill No.48 of 2023);
6. The Appellate Jurisdiction (Amendment) Bill (National Assembly Bill No.49 of 2023);
7. The Penal Code (Amendment) Bill (National Assembly Bill No.55 of 2023);
8. The Legal Aid (Amendment) Bill (National Assembly Bill No.53 of 2023);
9. The Prisons (Amendment) Bill (National Assembly Bill No.54 of 2023);
10. The Mining (Amendment) Bill (National Assembly Bill No.51 of 2023);
11. The Cancer Prevention and Control (Amendment) Bill (National Assembly Bill No.19 of 2023);
12. The Kenya Roads (Amendment) Bill (National Assembly Bill No.34 of 2023);
13. The National Transport and Safety Authority (Amendment) Bill (National Assembly Bill No.36 of 2023);
14. The Anti-Corruption and Economic Crimes (Amendment) (No.2) Bill (National Assembly Bill No.40 of 2023);
15. The Gold Processing Bill (National Assembly Bill No.46 of 2023);

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16. The Basic Education (Amendment) Bill (National Assembly Bill No.59 of 2023);
17. The Employment (Amendment) Bill (National Assembly Bill No.62 of 2023);
18. The Universities (Amendment) (No.3) Bill (National Assembly Bill No.64 of 2023); and,
19. The Institute of Social Work Professionals Bill (National Assembly Bill No.17 of 2023).

Hon. Speaker, as I mentioned, this is a Procedural Motion to exempt all the 19 Bills from lapsing at the end of this Session. Members will notice that many of those Bills are sponsored by Private Members, including the one on gold processing by Hon. Shinali, the Member for Ikolomani Constituency in Kakamega County.

Therefore, I beg to move and request the sponsor of the Gold Processing Bill, which is among the Bills being saved from lapsing, to second the Motion.

Hon. Speaker: Hon. Shinali.

Hon. Bernard Shinali (Ikolomani, ODM): Thank you, Hon. Speaker, for giving me the chance to second the Motion. Thank you, Leader of the Majority Party, for moving that Procedural Motion to give life to Bills, which Members have taken time to research and come up with.

If I could talk about the Gold Processing Bill...

Hon. Speaker: No, it is not time to debate your Bill—just second the Procedural Motion to save the Bills from lapsing.

Hon. Bernard Shinali (Ikolomani, ODM): Thank you, Hon. Speaker. I rise to second the Procedural Motion.

(Hon. Jayne Kihara stood along the gangways)

Hon. Speaker: Member for Naivasha, take the nearest seat.

(Question proposed)

Hon. Members: Put the question!

(Hon. TJ Kajwang' spoke off the record)

Hon. Speaker: Order, Hon. Kajwang'.

(Question put and agreed to)

Yes, Hon. Wangwe. Give him the microphone.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Speaker. I must appreciate the Leader of the Majority Party for considering Standing Order 141 on the extension of the Bills. My concern is that Standing Order 141 is silent on the reports. As the Chairperson of the Public Investments Committee on Social Services Administration and Agriculture, I have three reports on the Floor. May I get clarification on what will happen to my reports once the House adjourns?

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Wangwe, that is a legitimate concern. The motions you gave notice to on the Floor of the House will lapse, but the reports remain alive. So, in the next

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session, you will be given an opportunity to give notice of fresh motions on the same reports, which will then be considered.

Hon. Members, on that note, I know that we have not done exemplary well with Private Members' Bills for the reason that many of you who have Bills do not turn up to prosecute them. The fault lies squarely with us, Hon. Members. Therefore, since we are ending the session tomorrow, if you have a Bill that has not been prosecuted and is not among the 19...

(Hon. Fatuma Jehow consulted another Hon. Member)

Order, Hon. Jehow. When a communication is being made to the House, you should listen.

Hon. Members, if you have a Bill that stands the risk of lapsing but is not among the 19 identified and brought for exemption by the Leader of the Majority Party, check with the Clerks-at-the-Table and the Office of the Clerk. We can save your Bill in a communication and a motion that the Leader of the Majority Party may be obligated to bring tomorrow. That way, when we resume, you do not go through the process of seeking the Speaker's approval, coming through the First Reading, and then going to the House Business Committee before your Bill finds its feet on the Floor. Those with Bills, do so. Those with Motions, take the cue from the advice I have given to Hon. Wangwe.

Thank you.

Yes, Hon. Caroli Omondi.

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Speaker. I brought up this issue a few weeks ago. The delay is more in the processing of the Bills. I have three Bills that have to go through the Budget and Appropriations Committee before they proceed to the Departmental Committees. They are taking forever. I appeared before the Committee on one Bill two weeks ago. They have been there for three to four months. There are more issues at the back end of the office than when we publish the Bills. That is where we really need help.

Thank you.

Hon. Speaker: Going forward, Hon. Caroli, when you realise your Bill is being delayed inordinately, write to the Hon. Speaker so that we can track it and make the committees to fast-track its processing. I know that they are obligated to process the Bills anyway. But when there is an unreasonable delay, my office will assist any Member whose Bill is suffering such a delay.

Hon. Owen Baya. Give him the microphone.

Hon. Owen Baya (Kilifi North, UDA): Thank you, Hon. Speaker. Thank you very much, Hon. Caroli Omondi, for raising this issue. You need to use your power, under Standing Order 1, to vet the Bills on whether some must go to the Budget and Appropriations Committee. There are certain Bills that we come up with, but they take time. It takes you six months before a Bill is tabled at the Parliamentary Budget Office (PBO), yet it does not have any implication on the budget, even at face value. We need to change that because the PBO delays.

Three Bills lapsed because I had to queue as the PBO is busy, especially during the budgeting period when it cannot process Bills. You need to look at your office and the officers we have to determine whether some Bills must go to the PBO and whether they have any budgetary implications. This will help us to fast-track them. I have suffered. You have seen many of my communication Bills, but none have made it to the Floor of the House because the PBO has not sat as it is too busy. If you look at the queue, it stays with those Bills for three months, and then it gives you a report on an amendment of four or five lines. You can determine that without taking everything to the PBO.

Hon. Speaker: Hon. Emaase is not talking about the Budget and Appropriations Committee, but the PBO. I am sure you are jumping up to defend the Budget and

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Appropriations Committee, but he is not referring to it. Hon. Owen, I believe you are talking about the PBO.

Hon. Owen Baya (Kilifi North, UDA): Yes.

Hon. Speaker: Hon. DK, proceed. Give him the microphone.

Hon. David Kiplagat (Soy, UDA): Thank you, Hon. Speaker. My issue is a bit unique. I had an amendment on the National Government Constituencies Development Fund (NG-CDF) Act. I appeared before the Budget and Appropriations Committee. I was advised that the matter was *sub judice* as a result of the ruling from the court. We were given a grace period of two years for the NG-CDF to continue while still determining what to do. I want your ruling on this lacuna on what happened to that amendment. Should it be paused for two years, or should we proceed to amend it?

Hon. Speaker: There is no lacuna, Hon. DK. The Act was declared unconstitutional, but there is a saving grace of two years while it is in purgatory, right? Hon. Ichung'wah and his team are already working on it. The team of our legal caucus in the House— co-chaired by Hon. Chepkonga, Hon. (Dr) Otiende Amollo, Hon. Osoro, Hon. Kaluma and all the lawyers— is already working on a constitutional amendment and a possible re-drafting of the Bill. There is also an appeal preferred against the judgement of the courts, but we do not have a stay to validate the annulled Act. As it stands, it was declared unconstitutional. The saving grace is only when the judgement will become effective. You cannot amend a non-existent Act. Therefore, your Bill collapses on that ground alone.

Yes, Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, thank you for the guidance. I also thank the Leader of the Majority Party. I know it is provided for in some parts of the standing orders. To put the records right, we have managed to process several Bills up to the question being put after the Second Reading. I suppose they are not affected by that Standing Order.

On the issue that Hon. Baya has raised, he needs to put it also in context. Bills also delay so much in the Budget and Appropriations Committee. That is the fact of the matter. As I stand here, I have a Bill that was referred to the Committee in May. Until now, I have never been invited to be listened to so that I can prosecute my Bill to move to the next stage. The House must address these challenges when we return in February to become more effective and efficient so that we do not demoralise members in undertaking research and submitting Bills.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Hon. Oundo and those in your situation, from the next Session, I will give clear direction on how long a Bill should stay in any committee so that the committees can be obligated to finish up with Bills. Some of them are very efficient. Bills do not last there for more than two or three weeks. Others keep Bills for up to a year. I will give general direction so that the Leader of the Majority Party and his team can help police the committees to do their work quickly and efficiently.

Thank you.

Next Order.

MOTIONS

CONSIDERATION OF THE SENATE AMENDMENTS TO THE STATUTORY INSTRUMENTS (AMENDMENT) BILL

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THAT, this House do agree with the Report of the Committee of the whole House on its consideration of Senate Amendments to the Statutory Instruments (Amendment) Bill (National Assembly Bill No.2 of 2024).

(Moved by Hon. Kimani Ichung'wah on 3.12.2024 - Afternoon Sitting)

(Debate concluded on 3.12.2024 - Afternoon Sitting)

Hon. Speaker: Members, on their feet, take your seats. Hon DK, take your seat. You are very mobile in the House these days.

(Question put and agreed to)

Next Order.

CONSIDERATION OF THE REPORT OF THE COMMITTEE OF THE WHOLE
HOUSE ON THE TAX PROCEDURES
(AMENDMENT) (NO. 2) BILL

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Tax Procedures (Amendment) (No. 2) Bill (National Assembly Bill No. 46 of 2024).

(Moved by Hon. Kuria Kimani on 3.12.2024 - Afternoon Sitting)

(Debate concluded on 3.12.2024 - Afternoon Sitting)

Hon. Speaker: Order, Members on their feet. Take your seats.

(Question put and agreed to)

Mover.

BILL

Third Reading

THE TAX PROCEDURES (AMENDMENT) (NO.2) BILL
(National Assembly Bill No.46 of 2024)

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move that the Tax Procedures (Amendment) (No.2) Bill (National Assembly Bill No.46 of 2024) be now read a Third Time, and I request Hon. Ng'elechei to second.

Hon. Speaker: Hon. Ng'elechei.

Hon. Caroline Ng'elechei (Elgeyo Marakwet County, Independent): Thank you, Hon. Speaker, I second.

(Question proposed)

Hon. Speaker: I ascertain that we have a quorum to cast this vote.

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(Question put and agreed to)

(The Bill was accordingly read a Third Time and passed)

Hon. Speaker: Next order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

IN THE COMMITTEE

[The Temporary Chairman (Hon. Farah Maalim) in the Chair]

THE BUSINESS LAWS (AMENDMENT) BILL
(National Assembly Bill No.49 of 2024)

The Temporary Chairman (Hon. Farah Maalim): Hon. Members, please take your seats. We are in the Committee of the Whole House to consider two Bills. We will start with The Business Laws (Amendment) Bill (National Assembly Bill No.49 of 2024).

(Clause 2 agreed to)

Clause 3

The Temporary Chairman (Hon. Farah Maalim): The Leader of the Majority Party has an amendment.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, I beg to move: THAT, the clause 3 of the Bill be amended by deleting the new paragraph (d) and substituting therefor the following new paragraph—

“(d) a core capital of at least ten billion Kenya shillings in the case of a bank or a mortgage finance company:

Provided that the provisions of this paragraph shall apply in accordance with the following table—

Compliance Date	Minimum Core Capital, Banks and Mortgage Finance Companies (Kshs. Billion)
December 31, 2024	1.0
December 31, 2026	5.0
December 31, 2028	10.0

The import of this amendment is to amend the core capital threshold required for banks and mortgage finance companies so that by 31st December 2024, all of them should be within the threshold of Ksh1 billion, which all are. Then, by 31st December 2026, they should have attained the core capital requirement of Ksh5 billion and Ksh10 billion by 31st December 2028.

This is just amending what was there in the Bill. The Bill required the banks to attain the core capital of Ksh10 billion by 31st December 2027, which is in just three years. We are now extending that Ksh10 billion to four years, up from three years. The Bill had also required

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them to attain Ksh6 billion in two years and we have brought that down to Ksh5 billion in two years. I beg to move.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Hon. Caroli Omondi

Hon. Caroli Omondi (Suba South, ODM): We do not share that view. So, may we be heard?

The Temporary Chairman (Hon. Farah Maalim): Yes, proceed.

Hon. Caroli Omondi (Suba South, ODM): Hon. Temporary Chairman, banks generally are not supposed to be uniform. By insisting on a uniform core capital base for all the banks, we are actually trying to interfere with how the markets should work. Different banks serve different segments of the society. If you go to South Africa, a bank strictly deals with farmers on farm inputs. Why does it need the same capital base as a bank that deals with transnational investments? It is wrong. We should have different tiers of banks at different capitalisation levels dealing with different segments of society. If we insist that banks must have uniform capital, what we will be doing is creating higher entry barriers for new business people who may wish to start banks and also create a small exclusive club of first-tier banks that may not necessarily be responsive to the needs of the rest of the market.

To make matters worse, the core capital is not the money the banks use for their core business. Banking is based on leveraging the core capital, insurance schemes and deposits. So, to assume that the higher the capital base, the safer the bank will be, history does not tell us that.

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, Hon. Leader of the Majority Party?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, this is just to guide the Member that we are in Committee, not in the Second Reading. He is also misinforming the House, yet he knows that the core capital requirement for banks is standard even now. Tiers 1, 2, and 3 have nothing to do with core capital, and Hon. Caroli Omondi surely knows that. It is also true that banks are stratified. That is why the law today allows you to have microfinance banks that are a lower category than the normal commercial banks. Also, my point of order was that he was now debating. We are past debate. We did that yesterday.

(Loud consultations)

The Temporary Chairman (Hon. Farah Maalim): Order. Hon. Caroli has not finished. Proceed.

Hon. Caroli Omondi (Suba South, ODM): I have not finished. Thank you, Hon. Temporary Chairman. We need to understand why we are doing this kind of things. If you begin to categorise financial institutions as micro and the rest, you are basically excluding certain segments of society because that categorisation limits the quality and the extension of services that they can offer people. There is nothing wrong with having a bank of Ksh1 billion core capital and another one of Ksh20 billion, depending on the Business they are doing. But to insist that they all must have a uniform core capital is wrong.

Remember banks that have collapsed in this country, such as Chase Bank, Imperial Bank, and even the big ones like Barings Bank and Lehman Brothers Bank, did not collapse because they had low core capital; they collapsed because of mismanagement. This is not what we should be doing if we are talking about financial inclusion. We should allow new people to

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come up with new banks with low capital and banks that can be responsive to the needs of the market.

Thank you.

The Temporary Chairman (Hon. Farah Maalim): You have made your point. Member for Kinangop. Chairman of the Departmental Committee on Finance and National Planning, do not worry. I will give you an opportunity.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Chairman. In as much as I would wish to support this amendment I think the timeframe cited is too short. Growing from a core capital of Ksh1 billion to Ksh10 billion within a span of four years is really unreasonable. Like Hon. Caroli said, we will kill the upcoming little banks whose capital is Kshs1 billion. It will be too ambitious to bring them to speed and have Ksh10 billion within four years. I oppose this amendment.

The Temporary Chairman (Hon. Farah Maalim): Hon. Dawood.

Hon. Rahim Dawood (North Imenti, Independent): Thank you, Hon. Temporary Chairman. I support this amendment. It does not make any sense having small banks. In this country, we need to consolidate the banking industry. If any bank feels it cannot raise this capital then it can go microfinance route.

The Temporary Chairman (Hon. Farah Maalim): Hon. Kaguchia. Hon. Kimani you will have your moment.

Hon. Kaguchia John (Mukurweini, UDA): Thank you, Hon. Temporary Chairman. For sure, we discussed this amendment during the Second Reading of the Bill. The reason we always go through amendments is for them to sail through or fail. We are not doing this for the sake of it. Most of us oppose this amendment. The time duration we are giving banks to raise this high core capital is too short. This will exit most small banks from the country, force them to merge, consolidate or foreigners to buy them. That is why I am opposing this amendment.

The Temporary Chairman (Hon. Farah Maalim): Hon. Oundo. Be very brief. You know this is the Third Reading.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Chairman. I just want your guidance. There are very many amendments on this clause. I also have an amendment that I would wish to prosecute.

The Temporary Chairman (Hon. Farah Maalim): We will deal with it later. We have a number of amendments and we will deal with them one at a time.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Fine, that is understood.

The Temporary Chairman (Hon. Farah Maalim): Okay. Hon. Mwalika, Member for Kitui Rural.

Hon. David Mwalika (Kitui Rural, WDM): Thank you, Hon. Temporary Chairman. I totally oppose this amendment. I am a Member of the Committee and we met the stakeholders. Six banks cannot raise this amount of money within four years. This means banks will collapse. We will have financial shocks in this country and people will lose jobs.

The Temporary Chairman (Hon. Farah Maalim): Do you wish to be informed by the Leader of the Majority Party?

Hon. David Mwalika (Kitui Rural, WDM): As a Committee we proposed eight years.

The Temporary Chairman (Hon. Farah Maalim): Let me give this opportunity to the Chairman of the Committee.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary, I would like to inform this House a few things.

We have 24 commercial banks in Kenya. Out of these, 18 of them have a core capital of around Ksh6 billion. Only 6 banks have between Ksh3 billion and Ksh5 billion. This is a fact. The Committee had proposed to give them eight years, but the Leader of Majority Party

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is bringing an amendment to reduce it to four years. If you look at the time given, it is reasonable but the House should decide on it. On the question of tiers of banks, it has...

The Temporary Chairman (Hon. Farah Maalim): As the Chairman of the Committee what is your position?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, Hon. Millie Odhiambo? She is on a point of order so let us wait.

(Hon. Kuria Kimani and Hon. Kimani Ichung'wah stood in their places)

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Chairman. I request the Chairman of the Committee to sit down.

The Temporary Chairman (Hon. Farah Maalim): The Chairman of the Committee and the Leader of the Majority Party please be seated.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): He was on the Floor and the rules require that he sits. The Leader of the Majority Party can remain standing as he was not on the Floor.

The Temporary Chairman (Hon. Farah Maalim): Proceed. What is your point of order?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Chairman. I have a concern and perhaps that is the reason the Chairman and Leader of the Majority Party are conversing. If a committee does a report and brings it before the House and the Leader of the Majority Party has a different amendment or opinion, this should be left to the House to decide. The Chairman of the Committee has no business trying to persuade us to follow the Leader of the Majority Party. Unless I did not hear him right, he is departing from his own Committee which is not allowed by the rules. He has to persuade for his own Committee.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Millie. The Chairman of the Committee was categorical. He said given the number of banks that met that threshold, they did not accept. Am I right? He is not in support of the amendment by the Leader of the Majority Party.

Hon. Kuria Kimani (Molo, UDA): For the record, in our report we recommended to give them eight years. The Leader of the Majority Party just like any other Member is allowed to bring an amendment on the Floor of the House and then the House will pronounce itself.

The Temporary Chairman (Hon. Farah Maalim): Absolutely, and you have done that. Hon. Makilap, then I will give two more Members before putting the Question.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Temporary Chairman. Can I be given audience? I am a Member of the Committee. We received views from Kenyans through public participation and examined the situation in the country. If banks were to merge, that process can take about three years. If they want to reorganise their capital, this will take more time. After listening to Kenyans, the Committee felt that banks require time to meet this demand. That is why we agreed to give them eight years.

The Temporary Chairman (Hon. Farah Maalim): Fair enough. Hon. Ngusya, you have something to say?

Hon. Charles Nguna (Mwingi West, WDM): Thank you, Hon. Temporary Speaker. I share the same sentiments my colleagues have expressed. Banks need enough time to meet this requirement.

The Temporary Chairman (Hon. Farah Maalim): You have already done sufficient ventilation. For gender balance, let us have Hon. Emaase.

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Hon. Mary Emaase (Teso South, UDA): Thank you, Hon. Temporary Chairman. I do not agree with this amendment. It is not in the interest of this House to kill businesses and the few existing jobs. They must be given sufficient time to raise the required capital.

The Temporary Chairman (Hon. Farah Maalim): Okay, Hon. Members. Hon. Makali Mulu, this has been sufficiently ventilated. Let me put the question so you can decide. Okay, you are the last one. Proceed. Are you a Member of the Committee?

Hon. (Dr) Makali Mulu (Kitui Central, WDM): No, I am a Member of the Budget and Appropriations Committee, but this is my area.

The Temporary Chairman (Hon. Farah Maalim): Go ahead.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): The Committee had the benefit of doing public participation. I request the Leader of the Majority Party, Hon. Ichung'wah, that we go by the Committee's proposal so that we can save this country. Thank you.

(Question, that the words to be left out be left out, put and negated)

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman proceed.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move...

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members. Listen to the Chairman as he moves the amendment and import.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, clause 3 of the Bill be amended by deleting the new paragraph (d) and substituting therefor the following new paragraph—

“(d) a core capital of at least ten billion Kenya shillings in the case of a bank or a mortgage finance company:

Provided that the provisions of this paragraph shall apply in accordance with the following table—

Compliance Date	Minimum Core Capital, Banks and Mortgage Finance Companies (Kshs. Billion)
December 31, 2024	1.0
December 31, 2025	3.0
December 31, 2026	4.0
December 31, 2027	5.0
December 31, 2028	6.0
December 31, 2029	7.0
December 31, 2030	8.0
December 31, 2031	9.0
December 31, 2032	10.0

This amendment is what the Committee decided to increase gradually within the eight years.

(Question of the further amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Hon. Ichung'wah.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, I seek your indulgence to give us a few minutes to consult with the Chair and the Members of the Departmental Committee on Finance and National Planning on that clause. There is a risk of going back to the three years that is in the Bill. I really seek your indulgence that we consult so

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that the Chair moves his amendment in an amended form, otherwise, we will go back to the three years that is in the Bill instead of eight years. Let us consult then he can move his amendment in an amended form or we stick to the three years as proposed in the Bill.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members. The Chair of the Departmental Committee on Finance and National Planning is proposing an amendment that is in the Order Paper. So, the presumption is that every Member has read and internalised it, and has taken a position on it. What kind of consultation do you want to do? This amendment is in the Order Paper. All the Members must have read it. If anybody wants to shed light on it in opposition, he can proceed to do so.

Hon. Chair, you have moved the proposed amendment as per the Order paper.

(Loud consultations)

Order, Hon. Members!

Hon. Kimani, your amendment is nothing fresh. It is in conformity with what is on the Order Paper. We are in Clause 3. I have not put the Question.

I will give you five minutes as the Chair of the Departmental Committee on Finance and National Planning to consult with the leader of the Majority Party to try and reach a middle ground on that clause.

(Hon. Kuria and Hon. Ichung'wah consulted with the Hon. Temporary Chairman)

The Temporary Chairman (Hon. Farah Maalim): Is there any other Member who wants to contribute on this clause?

Hon. Waluke are you raising your hand?

Hon. Keynan, proceed.

Hon. Adan Keynan (Eldas, JP): Hon. Temporary Chairman, I am a Member of the Committee and I want to talk directly to my colleagues. We are reeling from the effects of the Gen-Z activities. We need to allow the small businesses, including the banks, to recoup and position themselves in a manner that they can grow. I beseech you. Four years is such a short time. If we were to get a crisis tomorrow, many of them will close shop.

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani, you had better listen to your colleagues in the Committee.

Proceed, Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): I am now told that the Chair and the Leader of the Majority Party have agreed. I want to persuade us. We live in this country and we understand its business climate. Let us not cause another crisis. The timeline given by the Committee Members was informed by the critical public participation exercise. We must hear the public. We need to resonate our thinking with what the people on the ground are saying. Let us go by the recommendations of the Committee. It makes sense. It will allow a gradual change from what is there.

What I am trying to say is that we went round and heard the views of the members of the public. A few months ago, we had challenges. I want to beseech us to protect the small struggling businesses everywhere in Kenya. Our work is to provide conducive legislations for banks and small businesses to grow.

I have been told that whatever the Chairman and the Leader of the Majority Party have agreed is half way. That might be conducive. However, I urge us to make a prudent decision on this. It is critical.

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The Temporary Chairman (Hon. Farah Maalim): The Leader of the Majority Party, your agreement has to be carried by the Committee of the whole House.

Hon. Bowen, proceed.

Hon. Kangogo Bowen (Marakwet West, UDA): Hon. Temporary Chairman, this amendment is very important in two senses...

(Loud consultations)

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members! Proceed.

Hon. Kangogo Bowen (Marakwet West, UDA): One, Hon. Temporary Chairman, we want to build our banking sector to be strong in terms of employing our people. Two, we want to make sure that they have access to credits. We do not want to entertain banks that cannot sustain business and competition in the market again. We have seen many of them collapsing because of liquidity issues.

I want to ask the Committee to agree and strike a balance so that we do not legislate to kill businesses and to have institutions that will not be functional.

The Temporary Chairman (Hon. Farah Maalim): The Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, UDA): Hon. Temporary Chairman, had I not been caught up by time, I would have proposed an amendment to delete the entire clause. We should leave businesses to thrive at their own pace and ability. The issue being raised that people can merge... People come into business with their own principles of operations. Because I am late in proposing an amendment, I propose that we go with eight or ten years so that businesses can grow. As long as they are regulated, they can have as low capital as possible.

The Temporary Chairman (Hon. Farah Maalim): Hon. Muriu.

Hon. Wakili Edward Muriu (Gatanga, UDA): Thank you, Hon. Temporary Chairman. We are dealing with the issue of trying to regulate businesses, therefore, we need to be very careful. As a Government, are we pro-business or anti-business? If we are pro-business, then we need to do away with this clause. Businesses should be allowed to grow organically. We should remember that it is the employees of the banks that we are talking about that will pay for the Social Health Insurance Fund (SHIF) and the Housing Levy. Banks are even forced to increase the salaries of their staff, therefore, we are adding a problem on top of another problem.

Hon. Alice Ng'ang'a (Thika Town, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, Hon. Alice? I will give her a moment and thereafter, we can have Hon. Kajwang'.

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Temporary Chairman. Just like life, there are people who are ahead while others remain behind. However, with time, even the ones who are behind usually catch up with the ones who are ahead. Let us give our businesses in this nation a conducive environment to thrive. Let us give our banks time to thrive. Today, I might not be the leading bank but next year, I might. Let us give them enough time rather than saying this one has to merge with this other one. No, let other businesses outside here have their time, and also sell their products. I might not be selling very well this year but I might be, next year.

The Temporary Chairman (Hon. Farah Maalim): Okay. Hon. Kajwang', there are three ways to look at these things.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Temporary Chairman, let us be sober on this matter. First of all, the Chairperson of the Departmental Committee on Finance and Planning needs to guide us properly. You need to let us know if we are kind of freezing, giving

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tax holiday for ten years or what. It is important to understand so that we know whether to support you or not. Are you saying that the period is frozen for ten years? Would there be no growth within those years? As I understand it, these things are progressively done every other three to four years, and every year, we have a Finance Bill coming, and the National Assembly would always revise as it is necessary. So, there are two things here: If we fear that we will not extend as it will come in the financial Bill, then you need to work out an amendment between you and the Leader of the Majority Party to give us three or four years renewable by the House when we come to financing. But it makes no sense to me that you can freeze a tax holiday for ten years. I mean, it is not a tax holiday because there would be capitation. You cannot freeze for ten years. It does not make sense to me.

Hon. Kuria Kimani (Molo, UDA): On a point of information.

The Temporary Chairman (Hon. Farah Maalim): Do you wish to be informed by Hon. Kimani?

Hon. TJ Kajwang' (Ruaraka, ODM): Yes.

The Temporary Chairman (Hon. Farah Maalim): Hon. Kuria, go ahead.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I think the Member of Parliament for Ruaraka is not well apprised of this matter.

The Temporary Chairman (Hon. Farah Maalim): I can see this too. He has not internalised it very well.

Hon. Kuria Kimani (Molo, UDA): The point in question is not a tax problem. It is the core capital for the financial institutions.

The Temporary Chairman (Hon. Farah Maalim): It is the core capital growth.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, so that we make progress, we have consulted with the Members of my Committee together with the Leader of the Majority Party, and now I am moving an amendment in an amended form so that we can get a compromise where the banks will have time to comply with their core capital; and again, there are risks of those banks collapsing with people's deposits. In any case, as I explained, most banks are already compliant and 18 banks are already above Ksh6 billion core capital. We only have six which are between Ksh5 and Ksh3 billion. We could, therefore, get a compromise that instead of ten years or what is proposed in the Bill of within three years, we say five years which is a reasonable time for these banks to comply.

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point of information, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Leader of the Majority Party, do you want to say something?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Just a point of information I wanted to give the Member for Ruaraka.

The Temporary Chairman (Hon. Farah Maalim): He is not on the Floor anymore.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Probably, I can inform the House because he has conceded and also, to set the record straight.

(Loud consultations)

You can protect me from the Members who are making noise behind me.

The Temporary Chairman (Hon. Farah Maalim): They are consulting and not making noise. Proceed.

Hon. Kimani Ichung'wah (Kikuyu, UDA): You are talking about the core capital of a bank and not the capital owners. It is about your constituents, the people who have elected you to represent them here, people who will never raise billions, people who walk into a bank to deposit their hard-earned Ksh1,000, Ksh10,000 and Ksh100,000. When these banks collapse

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because of inadequacy of capital, and I want to agree with Hon. Caroli that it is caused by mismanagement at times, it is your constituents who suffer and not the capital owners. Therefore, this House can never be seen to be defending and speaking on behalf of capital owners.

Two, Hon. TJ Kajwang' is right. This House legislates daily. If we pass a legislation today, nothing stops this House from changing it. If we find that any of the six banks have not met that threshold, and are unable to meet validly to protect our people, and I say this because I want to speak to the people of Kikuyu and the people of Kenya in general who put their hard-earned deposits in banks... Hon. T.J. is right. This House has legislated before on the core capital requirements for insurance companies in the same financial sector and we gave a graduated programme as we are doing now. When they were unable to meet that threshold, we would come back and re-legislate in a finance Bill.

What is so special about these banks? I want to prevail on Members to agree to the position that we have agreed on, a compromise that in the first two years, the banks do comply to raise their core capital to Ksh5 billion. We have six commercial banks which have not met that threshold as we speak. In another five years up from the four years which was in my amendment, everybody complies to the Ksh10 billion. Should there be legitimate cause to re-legislate, you will still be Members of Parliament, at least, a good number of you. You will still come back and re-legislate; however, you should endeavour to serve your core business by protecting depositors, and not the capital owners.

(Loud consultations)

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members. Let us listen to Hon. Benjamin Lang'at.

Hon. Benjamin Lang'at (Ainamoi, UDA):

Thank you, Hon. Temporary Chairman. I was in support of the position of the Committee because I am the Vice-chairman of the Committee, but I want to support the compromised position: Ksh1 billion core capital has been working for the last eight years. If we come back and say we want to increase it within a year by 100 per cent, that is very stiff. To get Ksh1 billion is not very easy. In fact, if we were to go that direction, it means the banks will not be lending for the next four years to the public because now they have to struggle to get money to become the core capital of their business. I want to support the compromise position. We must give these businesses more time to get the money so that they can manage to capitalise themselves. Thank you.

The Temporary Chairman (Hon. Farah Maalim): Hon. Benjamin, you debated something purely on a certain position. What are you proposing now?

Hon. Benjamin Lang'at (Ainamoi, UDA): I support the compromise position of five years but eight years would have been...

The Temporary Chairman (Hon. Farah Maalim): On the other hand, you are saying that by raising Ksh2 billion in a year is too much.

Hon. Benjamin Lang'at (Ainamoi, UDA): I have said that Ksh1 billion has been the core capital for the last eight years, and we have fairly operated well with the Ksh1 billion. Now, we are saying we have to raise Ksh3 billion in two years, which is Ksh1.5 billion per year, which is still a lot of money. That is the compromise position that we have. I support that one.

Hon. TJ Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, Hon. Temporary Chairman.

Hon. TJ Kajwang' (Ruaraka, ODM): If there is a compromise on such a serious issue such as this, it has to be reduced in writing and Members must see the text before we are able to pass or vote on it. Thank you.

The Temporary Chairman (Hon. Farah Maalim): I want to hear from Hon. Rindikiri.

Hon. Mugambi Rindikiri (Buuri, UDA): Hon. Temporary Speaker, I am concerned about the new entrants, and those who would like to start a business. If we are going to legislate and come up with a law that takes a certain volume of capital, and there are new up-coming, we need to think if they will have adequate time to raise that core capital. That is very important. We are not saying that we are going to have 24 banks in Kenya. We need to leave room for others to grow and become very competitive.

If we pass a law that will cater for 24 banks, I do not think that we will be doing justice to all those interested in coming up with a business to do with the banking. We have SACCOs which want to grow. I know if we use the same principle of core capital, the small upcoming SACCOs which want to turn into banks will be curtailed from putting up their bid to become bankers in this country.

The Temporary Chairman (Hon. Farah Maalim): Hon. Members, can I just do some explanation? I am not a finance person, but I just want to understand it. The original amendment by the Leader of the Majority Party was that the Ksh.10 billion should be raised in four years. The amendment by the Departmental Committee on Finance and National Planning was in eight years. Do you now want to reach a compromise of five years? That is a position. If you understand it, then debate on the basis of that.

(Loud consultations)

Say enough, Hon. Rindikiri. It is your moment. Has he contributed? You have contributed. Hon. DK.

Hon. David Kiplagat (Soy, UDA): Mine is just on a clarification. We are a House of rules. There is what is in the Order Paper that is there to bring order. So, Hon. Temporary Chairman, can you actually rule that we do something that is outside the Order Paper? Or we need to amend it so that it reflects the agreement?

(Loud consultations)

No, that is why I am giving it to the Temporary Chairman. You know we are in the process of learning. That is why I am giving it to the Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): It is a further amendment. You cannot change what is here.

Is there another Member who wants to contribute? Hon. Dawood, you have had your moment. Member of Parliament for Gichugu Constituency. No, you are going to move the amendment. Let us just do a bit of ventilation. Yes. He is going to move a further amendment and then you can speak on it.

Hon. Gichimu Githinji (Gichugu, UDA): Hon. Temporary Chairman, on the further amendment, is it possible for the Chairman to give an exemption to start-ups, the banks that are starting up? We are saying that for you to start a bank in another four years, you will require Ksh6 billion to start it. Actually, Ksh10 billion to start a bank and we have so many SACCOs that are supporting the common man and they would also like to rise to be banks. Actually, the banks that are existing are the promoters of this amendment so that they can to lock out anybody else who wants to become a bank in this country.

The Temporary Chairman (Hon. Farah Maalim): The amendment by the Chairman in the Order Paper here says a core capital of, at least, Ksh10 billion shillings in the case of a bank or a mortgage finance company so, both of them are there.

Do you want to move the amendment that you had? Drop first the original amendment.

Hon. Mugambi Rindikiri (Buuri, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Give him the microphone. I know we are rushing through something that is ...

Hon. Mugambi Rindikiri (Buuri, UDA): We are making what I call a principle. That does not mean that this country will have only 24 banks. How are we going to encourage the start-ups? After five years, we will lock out the 24 because they cannot raise Ksh10 billion. With all due respect, the principle that we are providing for in this Bill must be progressive and be a law that is going to promote business to thrive. We are encouraging formation of SACCOs which need to be given time to incubate and grow. If we make it that after four or five years they must have a core capital of Ksh10 billion, it means anybody else trying to enter the banking sector in this country must lose Ksh10 billion. We should make a progressive law.

The Temporary Chairman (Hon. Farah Maalim): Member for Trans Nzoia, we are not debating any amendment. The original amendment provided for eight years. The amendment by the Leader of the Majority Party was defeated. Now the amendment by the Chairman Departmental Committee on Finance and National Planning has not been moved. So, when he moves it, you will decide to either defeat it or carry it. Hon. Siyoi proceed.

Hon. Lilian Siyoi (Trans Nzoia, UDA): Thank you, Hon. Temporary Chairman. I am not in support of the four years because we have financial constraints in the country. The economy is not doing very well. And we even explained to the people that because of the COVID-19 that was there three years ago, people have not recovered up to now. I would wish that we support the small banks to come up because we have small business people who want to

The Temporary Chairman (Hon. Farah Maalim): So, what are you in favour of? That is the point.

Hon. Lilian Siyoi (Trans Nzoia, UDA): Eight years.

The Temporary Chairman (Hon. Farah Maalim): Do you want to drop your original amendment and move a new one? What do you want to do?

Hon. Kimani Kuria (Molo, UDA): I want to move a further amendment.

The Temporary Speaker (Hon. Farah Maalim): A further amendment? On the one of the eight years initially?

Hon. Kimani Kuria (Molo, UDA): Yes. May I?

The Temporary Chairman (Hon. Farah Maalim): A further amendment? You want to move this one in an amended form, under Standing Order 48?

Hon. Kimani Kuria (Molo, UDA): Hon. Temporary Chairman, I beg to move:

Hon TJ Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order? We are debating these things in vain because we do not have something.

Hon TJ Kajwang' (Ruaraka, ODM): Hon. Temporary Chairman, the Chairman of the Committee should know that though other members may not know, I can see some are struggling that a further amendment must be in writing.

The Temporary Chairman (Hon. Farah Maalim): This is the same amendment that he did initially, that he wants to move in an amended form. Amendment in an amended form.

Hon TJ Kajwang' (Ruaraka, ODM): What I am saying is that the Chairman should have a written documentation of what he is going to amend. We do not want to speak from the blues.

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The Temporary Chairman (Hon. Farah Maalim): Move it.

Hon. Kimani Kuria (Molo, UDA): Hon. Temporary Chairman, before I move the amendment. The reason the core capital of a bank ...

The Temporary Chairman (Hon. Farah Maalim): I hope you have internalised properly and consulted properly because this time it will either be defeated or it will be carried. And it is five years that you are going for.

Hon. Kimani Kuria (Molo, UDA): Hon. Temporary Chairman, I would like to persuade our Members that the reason core capital of banks is very crucial is because the model of operation of business for banks is very different from SACCOs. Banks take deposits, then they lend and that is how they make a profit.

In the event where they lend more than they should not or there is no prudential management in their lending and the defaulters become too many, we might find a situation whereby you go to a bank to withdraw money but you are told you cannot. You can go to a bank, you want to take a loan, even when you qualify for that loan and you cannot take. So, it is something very important.

Therefore, I beg to move my amendment in an amended form to read as follows.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Kimani. Standing Order 133(2) states:

“(2) No amendment shall be moved to any part of a Bill by any Member, other than the Member in charge of the Bill, unless written notification of the amendment shall have been given to the Clerk twenty-four hours before the commencement of the sitting at which that part of the Bill is to be considered in Committee.”

(Loud consultations)

(Hon. Kuria Kimani stood up in his place)

Order, Hon. Kimani!

Standing Order 133(3) states:

“(3) Despite paragraph (2), where an amendment has been moved to any part of a Bill in accordance with this paragraph, any Member may move an amendment to that amendment on delivering to the Chairperson the terms of his or her amendment in writing.”

You had better internalise the Standing Orders. You cannot engage in all those consultations inside the plenary while we are deliberating on a matter of such magnitude and gravity.

(Loud consultations)

No! You cannot just write your amendment by hand and bring it to me. That business has to be deferred to another day. I will give you five minutes to come up with the further amendment if you can do it very well. Is the amendment already written? Okay, proceed.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 3 of the Bill be further amended by deleting the proposed table of Core Capital and substituting therefore the following new table—

Compliance Date	Minimum Core Capital, Banks and Mortgage Finance Companies (Ksh Billion)
December 31, 2024	1.0
December 31, 2025	3.0
December 31, 2026	5.0

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December 31, 2027	6.0
December 31, 2028	8.0
December 31, 2029	10.0

It is also important to explain that if Members vote against this further amendment, it will mean that the Clause in the Bill carries the day. The minimum time period in the Bill is three years. If the House defeats my amendment, the provision in the Bill will pass, which requires banks to raise a core capital of Ksh10 billion within three years, which we all agree is too steep.

(Question of the further amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Do I put the Question?

Hon. Members: Yes!

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

The Temporary Chairman (Hon. Farah Maalim): Hon. Members, there were two other proposed amendments by Hon. Caroli Omondi and Hon. Wilberforce Oundo. Through your vote, they both stand defeated.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I raised that issue at the beginning of the consideration of the Bill. You need to give us guidance in such circumstances because we were proposing additional arrangements to the clause. My amendment was addressing the issue of different bank tiers. As Hon. Caroli Omondi said different banks offer different services and serve different clientele. A blanket principle does not support the financial sector. We will go back to the dark ages of financial exclusion because of the terms of the major players.

That is why we had sought your guidance at the beginning of the consideration of the Bill so that we could prosecute our amendments before the Committee prosecuted theirs. The Committee takes precedence, so if we had prosecuted our amendments first, we would probably have persuaded the Chairman to look at our recommendations as they make their further amendments. We were seeking your guidance on that. The process should be more organised and neater, so that we do not discourage Members from filing amendments.

The Temporary Chairman (Hon. Farah Maalim): Your amendment has now been overtaken by events. It is *functus officio*.

(Clause 3 as amended agreed to)

Clause 4

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 4 (b) of the Bill be amended—

- (a) in the definition of the term “credit provider” by inserting the word “credit” immediately after the word “taking” ; and
- (b) in the definition of “non-deposit taking credit business” –

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- (i) by inserting the words “whether or not digitally” immediately before the words “to members” appearing in paragraph (a);
- (ii) by inserting the following paragraph immediately after paragraph (d)-
 - (da) pay as you go arrangements as maybe determined by the Bank;
- (iii) by inserting the following proviso immediately after paragraph (f)—
 - “Provided that this does not include any credit arrangements involving the provision of credit by a person that is merely incidental to the sale of goods or provision of services by the person.”

The amendment seeks to expand the definition of a non-deposit-taking credit business to include the digital granting of loans or credit facilities. That covers the non-deposit-taking credit businesses, which operate digitally, but are not covered under the Central Bank of Kenya (CBK) (Digital Credit Providers) Regulations and are, therefore, unregulated.

The amendment will also limit the definition of a non-deposit-taking credit business to exclude businesses such as Safaricom, which sell their products such as phones through credit.

The amendment also seeks to include the non-deposit-taking digital lenders in the CBK Act, so that they can be under the purview of the CBK. Rules such as the interest payable not exceeding the principal amount will now be actualised. Therefore, the pain that our boda boda riders and others have been going through where they pay more interest than the principal amount will no longer exist.

That provision will also exempt those who give credit in their lines of business. For example, if you are in the fuel business and your supplier brings you fuel on credit, that will not come under the purview of the CBK.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Yes, *Mheshimiwa*.

Hon. Geoffrey Wandeto (Tetu, UDA): Thank you, Hon. Temporary Chairman. Since the CBK published the regulations regarding digital credit providers about three years ago, we have only managed to license about 51 out of 280 applicants. I am surprised that the House would allow the CBK to bring in an additional 200 or 300 microfinance institutions, which are under the Association of Microfinance Institutions (AMFI Kenya), which has been opposing this Bill.

Financial intermediation is a liberalised market just like any other. Just as it is in the clothes-selling or shoes-selling business, there must be a willing buyer and a willing seller. There are institutions that come within the ambit of regulated financial intermediation, which is under banks and SACCOs, especially those which take deposits. However, I do not think that it will be wise for this House to bring anybody who lends their money in an open market within the ambit of the CBK. We could be killing innovation in the name of regulation. I know there is blanket condemnation of shylocks and any financial intermediary being branded as predatory. I would like to inform you that people do not go for these loans because they have asked for a loan from a bank and not granted. It is because some bank and SACCO rules leave a huge population of this country out of the formal credit access mechanism. I urge this House to reject any attempt at strangling financial intermediation through undue and unnecessary regulation.

Hon. Temporary Chairman, I submit.

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Hon. Kimani Ichung’wah (Kikuyu, UDA): On a point of order.

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani Ichung’wah, what is your point of order?

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, I implore you to guide the House that we are in the Committee of the whole House, not at Second Reading. Allow me to correct what the Member for Tetu, Hon. Wandeto, has said. He is pre-supposing that by bringing these micro-finance institutions under the ambit of regulation by CBK, that they are being transformed into banks. They are not. They are just being regulated for the purposes of ensuring that the young boda boda riders in Tetu Constituency are not taken advantage of by crooks. Some of these people are simply crooks who are not regulated by anybody. You cannot tell us that the business of selling money is the same as the business of selling clothes. No, Hon. Wandeto. It is not. That is why you cannot register a company with the name ‘finance’ or ‘capital’ without the approval of CBK.

Hon. Temporary Chairman, guide Members that we are in the Committee of the whole House.

The Temporary Chairman (Hon. Farah Maalim): Fair enough. Hon. Komingoi.

Hon. Kibet Komingoi (Bureti, UDA): Thank you, Hon. Temporary Chairman. In support of this proposal, we must always remember to protect the interest of the public by supervising the industry. Anyone who wants to deal with money, finances, loans, advances or credit must bring themselves under the purview of CBK so that they are controlled. Being controlled does not mean that they are being stifled. They will still be innovative, carry out business and remain vibrant in service within that sector, but they must accept to be controlled and supervised.

The Temporary Chairman (Hon. Farah Maalim): Fair enough. You have made your point. Hon. Marianne, did you raise your hand?

(A Member spoke off the record)

I am looking for a lady who has raised her hand. Proceed, Hon. Marianne.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I support this amendment. It will save that *mama mboga* in my constituency who wants to borrow money but does not want to do so from somebody who will charge them exorbitantly and are not regulated because they do not fall under any ambit of regulation. Any business we do in this country must be regulated and abide by the rules of the law. This amendment secures anybody who will borrow loans.

Thank you. I support.

The Temporary Chairman (Hon. Farah Maalim): There is consensus. Hon. Makilap will be the last one.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Temporary Chairman. The essence of a Committee of Parliament going out to the people of Kenya is to listen to their voices. The people of Kenya are saying unregulated financial digital lenders are killing them. It is a scam. We support the Report of the Committee. If we do not regulate the institutions, they will wipe out people in business.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 4 as amended agreed to)

Clause 5

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The Temporary Chairman (Hon. Farah Maalim): Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 5 of the Bill be amended by—

(a) inserting the words “of Kenya” immediately after the words “Central Bank in the opening statement”;

(b) deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) in paragraph (h), by—

(i) deleting the word “digital” appearing before the word “credit” in subparagraph (vii) and substituting therefor the words “non-deposit taking”; and

(ii) inserting the following new subparagraph immediately after subparagraph (viii)—

(viii) credit guarantee companies;

This is to correct a typographical error in the citation of the Central Bank of Kenya Act. What is contained in the Bill is the ‘Central Bank Act’ but the mother Act is the ‘Central Bank of Kenya Act’. We are just adding the word ‘Kenya’. The amendment is also a clean-up of the Act by deleting the word ‘digital’ which is substituted by the word ‘non-deposit taking’ as per the new proposed definition.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 5 as amended agreed to)

Clause 6

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani, proceed.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended by inserting the words “of Kenya” immediately after the words “Central Bank”.

As I explained earlier, the mother Act referred to it is the Central Bank of Kenya Act, and not the Central Bank Act.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 6 as amended agreed to)

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Clause 7

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani, move the amendment. Hon. Kimani.

(Hon. Kimani Ichung'wah and Hon. Geoffrey Wandeto consulted loudly)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, the Leader of the Majority Party and the Member for Tetu are consulting loudly. Protect me because we need to pay attention.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Ichung'wah and Hon. Wandeto. I know you are debating a matter that is *functus officio*. It is already gone. Proceed, Hon. Kimani.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 7 of the Bill be amended —

- (a) by inserting the words “of Kenya” immediately after the words “Central Bank” in the opening statement;
- (b) in the proposed section 33R, by deleting the expression “section 4A(da)” and substituting therefor the following new expression “section 4A (1) (da)” appearing in the opening statement.

This amendment seeks to correct a typographical error in the citation of the ‘Central Bank of Kenya’, as I explained, and a reference error which references Section 4A(1)(da), that is proposed to be amended.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 7 as amended agreed to)

Clause 8

The Temporary Chairman (Hon. Farah Maalim): Proceed to move your amendment, Hon. Kimani.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended by inserting the words “of Kenya” immediately after the words “Central Bank”.

As I explained, this amendment corrects a referencing error to the mother Act.

(Question of the amendment proposed)

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*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 8 as amended agreed to)

Clause 9

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 9 of the Bill be amended—

(a) in the opening statement by inserting the words “of Kenya” immediately after the words “Central Bank”

(b) in the proposed new section 33X-

(i) by inserting the following new paragraph after paragraph (c) appearing in subsection (2), -

Cap. 488. “(d) is a bank providing credit guarantees as part of its regular banking business, regulated by the Banking Act.”

(ii) by inserting the words “without a licence” immediately after the word “business” in subsection (4).

This amendment seeks to exempt banks which already provide credit guarantee as part of their regular banking business from the requirement of registering as a credit guarantee business.

The amendment also corrects an omission in the offence which has been established under the clause by adding this new concept of credit guarantee. It exempts banks that already provide credit guarantee business from registering again in the Act.

The Temporary Chairman (Hon. Farah Maalim): If you look at the Supplementary Order Paper page 3478 in Clause 9 of the Bill, there is something you left out. There is a typographical error in Clause 9(a).

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, the amendment in Clause 9(a) is for the same reason that I have explained.

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 9 as amended agreed to)

Clause 10

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani, move your amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 10 of the Bill be amended by inserting the words “of Kenya” immediately after the words “Central Bank”.

The amendment seeks to do what I have already explained.

(Question of the amendment proposed)

(Question, that the words to be inserted)

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be inserted, put and agreed to)

(Clause 10 as amended agreed to)

Clause 11

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman, move your amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 11 of the Bill be amended-

- (a) in the opening statement by deleting the expression “57(3)” and substituting therefor the expression “57”;
- (b) in paragraph (h) by deleting the expression “in subsection (1),” appearing immediately before the words “by inserting” and substituting therefor the expression “in subsection (3)”;
- (c) by renumbering paragraph (h) as paragraph (a);
- (d) by renumbering paragraph (i) as paragraph (b);
- (e) by renumbering paragraph (j) as paragraph (c).

The amendment seeks to correct typographical errors and ensure good flow of the Bill.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Nobody is interested to contribute.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 11 as amended agreed to)

Clause 12

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 12 of the Bill be amended by inserting the words “of Kenya” immediately after the words “Central Bank”.

The amendment seeks to correct the referencing error of the Central Bank of Kenya.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 12 as amended agreed to)

Clause 13

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The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman of the Committee, move your amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 13 of the Bill be amended in paragraph (c), by deleting the definition of “moveable security”

This amendment seeks to clean up the Bill by removing the proposed new definition which is incorrectly referenced to the Moveable Property Security Rights Act.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 13 as amended agreed to)

(Clause 14 agreed to)

Clause 15

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman, move your amendment in Clause 15.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 15 of the Bill be amended in the proposed new section 4A, by deleting the word “not” appearing in paragraph (a) and substituting therefore the word “non”.

This amendment seeks to correct a typographical error in the Bill.

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 15 as amended agreed to)

(Clauses 16, 17 and 18 agreed to)

Clause 19

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended in the proposed new section 53 by-

- (a) inserting the words “and recovery” immediately after the word “lending” appearing in paragraph (a);
- (b) by inserting the following new section immediately after subsection (2)-

“(2A) A non-deposit taking microfinance business shall comply with the requirements of Article 31 of the Constitution and the Data Protection Act in lending loans and recovery of debts.”

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This amendment seeks to expand the obligation of the non-deposit taking microfinance business in consumer protection by ensuring that they furnish information on the procedure of both lending and recovery, as well as adherence to the right to privacy enshrined in the Constitution and statutes.

It also seeks to correct where some creditors call your parents, brothers, sisters and people on your phone book when there is a delay in payment. This is to make sure that even as they lend, there is full disclosure of how they are going to recover it in the event that the loans are not paid. It will also ensure that the privacy of the borrower is protected.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Hon. Makali Mulu, proceed.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Temporary Chairman. I support this amendment. I agree with the Chairman of the Departmental Committee on Finance and National Planning because this is one most abused clauses in terms of information. We have a Data Protection Act which protects all Kenyans, including those who borrow money. This is abused a number of times. After this clause becomes law, we need to ensure that it is enforced.

With those remarks, I support the amendment.

The Temporary Chairman (Hon. Farah Maalim): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I want the Chairman of the Departmental Committee on Finance and National Planning to shed some bit of light here. We are talking about information sharing. To what extent does information shared by Credit Reference Bureaus (CRB) interface with this particular provision? As I support the amendment, I need clarification on the sharing of information with CRB, so that Kenyans are very clear that one can share information to a certain extent. What are the limits so that Kenyans are aware?

The Temporary Chairman (Hon. Farah Maalim): Yes, Hon. TJ Kajwang'.

Hon. TJ Kajwang' (Ruaraka, ODM): In addition to what the professor is asking, while I agree with the principle of this amendment, I believe it is not necessary. I can see that it is 2A. Everybody is enjoined to adhere to the Constitution and the Data Protection Act. Therefore, a law which simply reminds people to adhere to the law, is superfluous in legislative practice. I think we need to agree here that we are not reproducing laws just for the sake of it.

The Chairman of the Departmental Committee on Finance and National Planning, it escaped you that everybody in this country should respect the Constitution and the Data Protection Act, which is already there. All you are doing is to reproduce that law. I agree with the principle, but in terms of legislative practice, I do not think I like this type of legislation.

The Temporary Chairman (Hon. Farah Maalim): Anybody else who wants to take a bite at it? I will now put the question.

*(Question, that the words to be added
be added, put and agreed to)*

(Clause 19 as amended agreed to)

Clause 20

The Temporary Chairman (Hon. Farah Maalim): Where is the Leader of the Majority Party?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, I beg to move:

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THAT, the Bill be amended by deleting clause 20 and substituting therefor the following new clause—

20. The Standards Act is amended by inserting the following new section immediately after section 5—

Information on
manufacturers. 5A. The Bureau may liaise with relevant government agencies which register businesses to obtain information on businesses registered to undertake manufacturing.

The Temporary Chairman (Hon. Farah Maalim): Proceed. It is on page 3475 of the Order Paper.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Sorry, Hon. Temporary Chairman. It is because we have two amendments. All we are doing is require that the Kenya Bureau of Standards (KEBS) may liaise with relevant government agencies which register businesses, to obtain information on businesses registered to undertake manufacturing. The Committee had sought to delete a provision in the Bill that required disclosure of certain manufacturers. Or rather, requiring manufacturers to register with KEBS, and to dissuade KEBS from increasing the cost of doing business. We have now amended that to say that the Bureau will be required to liaise with other relevant Government agencies like Kenya Revenue Authority (KRA) and the former Registrar of Companies, to get all the relevant information that they may want, without requiring manufacturers to go and register with them, as it may be too cumbersome for businesses.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Yes, the Member for Kinangop.

Hon. Kwenya Thuku (Kinangop, JP): I support that amendment for the simple reason that asking manufacturers to register with the standards body...

The Temporary Chairman (Hon. Farah Maalim): You want a further amendment.

Hon. Kwenya Thuku (Kinangop, JP): No. I am supporting that amendment, because asking the manufacturers to register with the standards body will increase the cost of doing business. Having said that, the issue of registration of products perhaps should have been brought into this Act so that every product that is produced by any manufacturer is registered with the standards body.

Thank you.

The Temporary Chairman (Hon. Farah Maalim): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, while I can see the intention of the amendment, this is an over legislation. Nothing stops KEBS from getting this information from the Kenya Revenue Authority, the Registrar of Companies or Business Registration Services. Let it go on record, and I hope the Leader of the Majority Party is listening, that any manufacturer of goods and services in this country is registered by customs under the Excise Duty Act. That information is already there. You do not need to legislate to get that information. KEBS can just walk there and get that information. This is just an over-legislation, superfluous and basically an over-kill. Nothing stops them.

The Temporary Chairman (Hon. Farah Maalim): Hon. Marianne Kitany.

Hon. Marianne Kitany (Aldai, UDA): Whereas I agree with my Member, Hon. Oundo, not all manufacturers will be registered under the Act he is talking about. It is only manufacturers who import who are registered under that Act. Manufacturers who do not import are not registered under that Act. Therefore, this amendment by the Leader of the Majority Party is to further buttress that entities that register every manufacturer, whether they import or do not import, will be required to collect information. KEBS will be required to collect

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information from manufacturers, as all manufacturers will be registered under the Companies Act by the Registrar of Companies.

(Loud consultations)

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members.

(Hon. TJ Kajwang' spoke off the record)

The Temporary Chairman (Hon. Farah Maalim): Yes.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Temporary Speaker, for the last time, would the Leader of the Majority tell us in just one or two sentences what the mischief is because we are just over-legislating. Is there something that we do not know? Could you just tell us clearly the mischief of this legislation?

(Hon. Marianne Kitany spoke off the record)

No! I am asking the person who has technical information, who I understand is...

The Temporary Chairman (Hon. Farah Maalim): Any Member who has technical information can give it. Proceed. What is the mischief?

Hon. Marianne Kitany (Aldai, UDA): I am the Vice-Chair of the Committee, so I would actually be better placed to give you information if there is any mischief. There is no mischief. More importantly, if you look at the subsequent clauses that we are seeking to amend, we are requiring every manufacturer to provide information about the products they manufacture because of sampling and testing. We are saying that every product that is manufactured must be tested. For KEBS to undertake that testing, they must know who that manufacturer is. That is the reason for bringing that amendment so that we can follow through all the products that will be manufactured. That amendment is coming in the subsequent clauses.

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

The Temporary Chairman (Hon. Farah Maalim): Hon. Vice-Chairlady, you have a further amendment? Do you wish to drop that?

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Temporary Chairman. We would like to drop our amendment and go as per the amendment of the Leader of the Majority Party.

(Hon. (Dr) Ojiambo Oundo spoke off the record)

The Temporary Chairman (Hon. Farah Maalim): Hon. Members, a point of record. We do not have a provision of a point of record, but proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): This is guidance, and I think the Whip of the Minority Party, Hon. Millie Odhiambo, has been very clear, that once the Committee sits and makes an amendment, any person be it the Chairperson or the Vice-Chairperson representing the Committee, cannot purport to drop or change the Committee resolution

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without consulting the Committee Members. That is the position unless the Standing Orders have changed.

I sit in the Departmental Committee on Trade, Industry and Cooperatives, and we made a proposal to amend that particular clause. She cannot purport to withdraw without another resolution of the Committee. We signed the adoption list which was based on the Report of the Committee and the Committee amendments. We cannot come here and change. We are not a Kangaroo Court. How?

(Loud consultations)

(Hon. (Dr) Ojiambo Oundo spoke off the record)

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members. We do not micro-manage the business of Committees.

Hon. Members: Yes

The Temporary Chairman (Hon. Farah Maalim): Authoritatively if the Hon. Chairlady has decided this will be dropped then that is it.

Hon. Gichimu Githinji (Gichugu, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Yes, Member for Gichugu. What is your point of order?

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Chairman. I am a Member of the Departmental Committee on Trade, Industry and Cooperatives. I sat together with the Chairlady and she informed me the intention behind the amendment by the Leader of the Majority Party. Hon. Oundo was unable to catch your eye. I feel that this amendment does not obligate manufacturers to register. The bureau will liaise with the relevant authorities because it does not have mandate to register manufacturers under the Act. So, it does not break any bone if the amendment is carried.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members.

(Clause 20 deleted)

Clause 21

(Hon. (Dr) Ojiambo Oundo and Hon. Makali Mulu spoke off the record)

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members. You cannot take us back. Hon. Oundo we do not micro-manage committees.

(Hon. (Dr) Ojiambo Oundo spoke off the record)

We have passed that one. Where is the Chairlady of the Departmental Committee on Trade, Industry and Cooperatives? Proceed.

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Temporary Chairman.

I beg to move:

THAT, the Bill be amended by deleting Clause 21.

The purpose for this is that the Standards Levy should be utilised for the purposes it is collected as set out under Order 10 of the Standards Levy Order. The proposed attempt to channel the funds collected towards payment of allowances and salaries to directors and staff of Kenya Bureau of Standards (KEBS) will negate the purpose for which the levy is imposed.

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(Question of the amendment proposed)

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Chairman. That is the resolution of the Committee and I have no objection.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Must you stand up to tell us that?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Yes. This is because we have done a travesty of justice in Clause 20. However, Clause 21 is in order.

The Temporary Chairman (Hon. Omboko Milemba): Order, Hon. Members.

(Loud consultations)

(Hon. Kimani Ichung'wah walked across the aisle)

Order, Leader of the Majority Party.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 21 deleted)

(Clause 22 agreed to)

Clause 23

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairlady of the Departmental Committee on Trade, Industry and Cooperatives, move your amendment.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 23 of the Bill be amended by —

(a) inserting the following new provision immediately after the proposed new section 12(1) —

(1A) A person who imports, stocks, distributes, sells or exhibits a product shall not place on the market or put into service any product that is not sold freely or conforms to applicable regulatory requirements in the country of origin.

(b) inserting the following new provisions immediately after the proposed new sub section (4)—

(5) Pursuant to subsection 4, the Bureau may issue an order to a manufacturer or business operator to —

(a) prescribe specific conditions for the marketing of the product;

(b) inform consumers of the risks in a clear and efficient manner;

(c) mark the product with appropriate warning on the risks presented;

(d) remove the product from listing in online sales platforms;

(e) destroy the product;

(f) stop the supply and distribution of the product,

(g) take any other measures consistent with this Act to eliminate risk to consumers and the public.

(6) The Cabinet Secretary may make regulations for the better carrying into effect of the provisions of this section.

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The justification is that the standards of goods imported into the country leads to specified action which KEBS will take to remedy a situation, where sub-standard goods are found in the market. Such remedies could be removal of the products from the markets or extraction of the sub-standard products. It further goes to require that the Cabinet Secretary may make regulations to give effect to the provisions of this section. Thank you.

(Question of amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Is there anyone who wants to contribute?

Hon. Members: Put the question.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 23 as amended agreed to)

Clause 24

The Temporary Chairman (Hon. Farah Maalim): Where is the Chairlady? Proceed.

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Temporary Chairman.

I beg to move:

THAT, Clause 24 of the Bill be amended —

(a) in the proposed new section 12A by—

- (i) inserting the words “be accredited by the Kenya Accreditation Service to” immediately after the word “shall” appearing in the opening statement of the proposed new subsection (1);
- (ii) deleting the proposed new subsection (3)

(b) in the proposed new section 12B —

- (i) by inserting the words “be accredited by the Kenya Accreditation Service to” immediately after the word “shall” in the opening statement of the proposed new subsection (1) ;
- (ii) by inserting the words “accredited under the relevant Act” immediately after the word “bodies” in the proposed new subsection (3)

(c) in the proposed new section 12C by—

- (i) deleting the words “by notice in the Gazette, designate” appearing in the proposed new subsection (2) and substituting therefor the words “make regulations designating”
- (ii) deleting the words “The notice under subsection (2) may also” appearing in proposed new subsection (3) and substituting therefor the words “Without prejudice to the generality of subsection (2), the Regulations may”

The justification for this is that the proposed deletion of the Clause 12A (3) on the grounds that accreditation of laboratories is a function of the Kenya Accreditation Service (KENAS) and not KEBS. Also, this will require that all established laboratories and calibration facilities even those belonging to KEBS be accredited by KENAS under the relevant law. It will also require the Cabinet Secretary to make regulations on categories of measuring instruments and equipment.

Thank you.

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(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Hon. Member for Gichugu.

Hon. Members: Put the question!

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Chairman. I support this amendment because accreditation services are under KENAS. Some organisations get accreditation outside the country like South African National Accreditation System (SANAS) or Nigeria and other places. We need to domicile all the accreditation within this country.

*(Question, that the words to be inserted,
be inserted, put and agreed to)*

*(Question, that the words to be left
out be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 24 as amended agreed to)

Clause 25

The Temporary Chairman (Hon. Farah Maalim): Leader of the Majority Party, move your amendment.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, I beg to move: THAT, Clause 25 of the Bill be amended in the proposed new section 14D by deleting the proposed subsection (2)

Subsection 2 required that the inspection body should be domiciled in Kenya for tax purposes. Some inspection bodies are based outside the country and accredited by KEBS resulting to double taxation.

Thank you, Hon. Temporary Speaker.

(Question of amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Yes, Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): I have just listened to the Leader of the Majority party and he is talking about a section of Clause 25. The Order Paper states deletion of the whole clause. He needs to be clear.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, if Hon. Makali listened to me, I talked of an amendment in the proposed new Section 14D by deleting the proposed subsection 2. Therefore, I intend to leave the first part of Section 14D (1). The deletion of the whole clause is the Committee's amendment. I believe the Chairlady will drop it, if this one goes through.

The Temporary Chairman (Hon. Farah Maalim): Hon. Makali Mulu, for your own benefit, go to Page 3475. You will find Clause 25 there.

(Question, that the words to be left

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out be left out, put and agreed to)

(Hon. Temporary Chairman consulted with the Clerks-at-the-Table)

You have an amendment on Clause 25. Is it?

Hon. Marianne Kitany (Aldai, UDA): Yes, we had an amendment which we are dropping and we are going by the amendment of the Leader of Majority Party.

(Proposed amendment by Hon. Marianne Kitany dropped)

(Clause 25 as amended agreed to)

Clause 26

The Temporary Chairman (Hon. Farah Maalim): Mover.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to Move:

THAT, Clause 26 of the Bill be amended in the proposed new section 10A—

(a) by renumbering the existing provision as subsection (1);

(b) by deleting the word “foreign” appearing immediately after the word “every”;

(c) by inserting the following new subsections immediately after the proposed new subsection (1) —

(2) A conformity assessment body established in Kenya and that seeks to be accredited by a foreign accreditation body shall obtain an exemption from the Service in the prescribed manner and upon payment of a prescribed fee.

(3) A foreign conformity assessment body operating in Kenya that is accredited by a foreign accreditation body shall obtain an exemption from accreditation by the Service in the prescribed manner and upon payment of a prescribed fee

(4) A conformity assessment body operating in Kenya that is accredited by a foreign accreditation body shall, within three months of the commencement of this Act, apply to the Service for accreditation or exemption as the case may be.

The justification is that we are trying to make it mandatory for all conformity assessment bodies to be accredited by the Kenya National Accreditation Service. Further, the assessment body that is already accredited outside the country may, on application and payment of a fee, be exempted by the Kenya National Accreditation Service and this is in line with the principles of mutual recognition under international laws.

Thank you.

(Question of the amendment proposed)

*Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 26 as amended agreed to)

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Clause 27

The Temporary Chairman (Hon. Farah Maalim): Mover.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 27.

The justification for it is that the proposed new accreditation levy of three per cent of the value of the accredited service would add to the already high cost of doing business in Kenya, which will ultimately be passed down to consumers. So, introduction of a new levy at this time had not been justified and it will increase the economic burden of the people of Kenya. Most stakeholders propose the rejection of the new accreditation levy.

(Question of the amendment proposed)

*Question, that the words to be left out
be left out, put and agreed to)*

(Clause 27 as amended agreed to)

(Clauses 28 and 29 agreed to)

Clause 30

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairperson

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 30 and substituting therefore the following new provision—

“30. Section 4 of the Special Economic Zones Act is amended by inserting the following new subsection immediately after subsection 5—

“(5A) The Cabinet Secretary shall, on the recommendation of the Authority, set the minimum investment amount to be invested in an area declared as a special economic zone.”

The justification is that this amendment seeks to re-arrange the proposal because it is misplaced in the Bill. The Committee also proposes to remove the proposal that the Cabinet Secretary shall set minimum acreage of land in the Special Economic Zones as it lacks merit and is outdated. In the current digital era and with technological advancements, the activities that may be done in some Special Economic Zones, for example science and technology parks or ICT parks, may not necessarily require large tracts of land to operate.

(Question of the amendment proposed)

*Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 30 as amended agreed to)

(Clause 31 agreed to)

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Clause 32

The Temporary Chairman (Hon. Farah Maalim): Mover

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 32(d) of the Bill be amended in the proposed amendments to paragraph (m) by inserting the words “recommend to the Cabinet Secretary to” immediately before the word “suspend”

The justification is to retain the existing provisions under which it is the Cabinet Secretary who suspends or cancels licenses for Special Economic Zone Developers based on the recommendation of the Authority.

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 32 as amended agreed to)

(Clauses 33 and 34 agreed to)

Clause 35

The Temporary Chairman (Hon. Farah Maalim): Mover.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 35 (c) of the Bill be amended by deleting the proposed new subsection (4) and substituting therefore the following—

“(4) A special economic zone developer or a special economic zone operator who fails to maintain adequate and proper accounts and other records as required by this section commits an offence and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding six months, or both.”

The justification is that this amendment is to retain the current position in the law. We observe that the proposed amendments in the Bill infringe on the right to a fair hearing hence the need to revert to the provisions as contained in the current law but with enhanced fines.

(Question of the amendment proposed)

*Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 35 as amended agreed to)

Clause 36

The Temporary Chairman (Hon. Farah Maalim): Leader of the Majority Party.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, I beg to move:

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THAT, Clause 36 of the Bill be amended by deleting the proposed new subsection (5) and substituting therefor the following —

“(5) The incentives and tax benefits granted to a licensed special economic zone developer, operator or enterprise under this Act or any other written law shall apply for a period not exceeding ten years from the date of issuance of the licence, notwithstanding any changes in this Act or any other written law.”

Hon. Temporary Chairman, this is just to ensure that operators, investors and developers in Special Economic Zones are first guaranteed that they will not be disrupted in the course of the term that they have invested for a period not exceeding ten years, for all the tax incentives that they have been granted by the Government will be sustained for a period that will not exceed 10 years. This is just to guarantee investors and attract more investors into the Special Economic Zones. Members, we realise that we have too many Economic Zones where investors have failed to invest because of uncertainties as to whether the incentives they enjoy will continue to be. This is because they imagine that every Finance Bill may make changes that will remove their incentives. We are guaranteeing them that for a period that will not exceed ten years, they would be guaranteed of those incentives.

I beg to move.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): It has got two sections. Let us first deal with the one for the Leader of Majority Party.

(Hon. Mark Mwenje spoke off the record)

Hon. Kimani Ichung’wah (Kikuyu, UDA): Let him propose first.

The Temporary Chairman (Hon. Farah Maalim): I proposed.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Ooh, you proposed already?

The Temporary Chairman (Hon. Farah Maalim): Yes.

Hon. Mark Mwenje (Embakasi West, JP): That is what I was trying to say.

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairperson, Departmental Committee on Trade, Industry, and Cooperatives, you have a further amendment.

Hon. Marianne Kitany (Aldai, UDA): Thank you. We would like to drop the proposal that we had in the Order Paper and go by the further amendment by the Leader of the Majority Party.

The Temporary Chairman (Hon. Farah Maalim): Fair enough.

(Proposed amendment by Hon. Marianne Kitany dropped)

*Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 36 as amended agreed to)

Clause 37

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The Temporary Chairman (Hon. Farah Maalim): Hon. Marianne Kitany, move your amendment.

Hon. Marianne Kitany (Aldai, UDA): I beg to move:

THAT, the Bill be amended in Clause 37 by—

- “(a) Deleting the proposed new paragraph (ha) and substituting therefor the following — “(ha) facilitate patents, industrial designs and utility models rights holders to commercially exploit any invention or innovation which the Institute deems fit or incidental to the achievement of its objects and performance of its functions, subject to the terms approved by the Board.”
- (b) Deleting the proposed new paragraph (hb)

The justification of the amendment is that it enhances clarity and takes care of the interests of patterns, industrial designs, utility models, and rights holders so that their rights are not arbitrarily transferred through purchase or styling. This is especially for Micro, Small and Medium Enterprises (MSMEs).

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 37 as amended agreed to)

Clause 38

The Temporary Chairman (Hon. Farah Maalim): Hon. Marianne Kitany, move your amendment.

Hon. Marianne Kitany (Aldai, UDA): I beg to move:

THAT, the Bill be amended in Clause 38 by—

- (a) In the proposed new sub section (1) by deleting paragraph (a) and substituting therefor the following—
 - “(a) levy nominal fees for its services as may be prescribed in Regulations; and”
- (b) Deleting the proposed new sub section (2) and substituting therefor the following—
 - “(2) The Cabinet Secretary may make regulations for the better carrying out of this section, including provisions on—
 - (a) Prescribed fees payable to the Agency for its services;
 - (b) Reduction of fees or exemption from payment of fees;
 - (c) Conditions for reduction of fees or exemption from payment of fees.”

The justification is the requirement for justification of regulations outlining conditions for exemptions to be granted by the Cabinet Secretary and allow reduction of fees. This will act as a safeguard against abuse of discretionary powers.

(Question of the amendment proposed)

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The Temporary Chairman (Hon. Farah Maalim): Yes, Hon. Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, UDA): I support this because it gives clarity. Any charges can only come through regulations. Initial amendments were quiet. It was not clear that any regulations would be required. In this case, we require that regulations must be done to give instances and how much to charge.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 38 as amended agreed to)

New Clause 39

THAT, the Bill be amended by inserting the following new clause immediately after Clause 38:

Consequential amendments.

Cap 499B

39(1). The Director General of the Business Registration Service shall immediately upon the incorporation or registration of a business whose purpose and objects is to undertake manufacturing business submit particulars of the information on the business to the Kenya Bureau of Standards for purpose of section 5A of the Standards Act.

Cap 486

(2)The Registrar of Companies shall immediately upon the incorporation or registration of a company under the Companies Act whose purpose and objects is to undertake manufacturing business submit particulars of the information on the company to the Kenya Bureau of Standards for purpose of section 5A of the Standards Act.

(The new clause was read a First Time)

The Temporary Chairman (Hon. Farah Maalim): This is a new clause. Hon. Kimani Ichung'wah, move Second Reading.

Hon. Kimani Ichung'wah (Kikuyu, UDA): I beg to move that the New Clause 39 be now read a Second Time.

This is a consequential amendment further to the amendment we moved on Clause 20 that required the KEBS to get relevant information from other government agencies. New Clause 39(1) says that the Director-General of the Business Registration Service or the Registrar of Companies shall, immediately upon the incorporation or registration of a business whose purpose and objects is to undertake manufacturing business, submit particulars of the information on the business to KEBS for purposes of Section 5A of the Standards Act. This is what we had said under Clause 20.

New Clause 39(2) says that the Registrar of Companies shall, immediately upon the incorporation or registration of a company whose purpose and objects is to undertake

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manufacturing business under the Act, submit particulars of the information on the company to the Kenya Bureau of Standards for purposes of Section 5A of the Standards Act.

It is self-explanatory. It is just in relation to what we said. We do not need to burden manufacturers to register with KEBS. We now direct that the bureau of Business Registration Services and the Registrar of Companies furnish KEBS with that information.

*(Question, that the new clause
be read a Second Time, proposed)*

The Temporary Chairman (Hon. Farah Maalim): Member from Embakasi.

Hon. Mark Mwenje (Embakasi West, JP): I have a query to the Leader of the Majority Party. I am trying to understand what he is saying. Is he proposing that one has to go to KEBS over companies' intentions and objects to manufacture? You may no longer have to go to KEBS once you have incorporated a company. It will automatically be under the Registrar of Companies. Clarify that issue.

The Temporary Chairman (Hon. Farah Maalim): Yes, Hon. Oundo. Hon. Kimani, we will just take a few more questions then you respond.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Of course, it is a consequence of the amendment that some Members of our Committee adopted. Now, the only practicality of this amendment is that we are going to saddle and burden KEBS with much data that will eventually be of no use to them. Some people register companies with an intention and they never operationalise it. Therefore, we will have KEBS bearing a lot of information that is not useful. We are also going to burden the Registrar of Companies. It is okay, but *wengi wape*.

The Temporary Chairman (Hon. Farah Maalim): I see the name of Hon. Beatrice Elachi. Where is she? Proceed, Beatrice.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Chairman. I support.

We are trying to help so that we do not have to go back to KEBS to be taken through all the things that are done there. I think that is the best thing to do. Many people go through this and that. There is a lot of giving in in trade. You have to give in this to get that. We can only support it if it is about closing those gaps and reducing corruption. One thing I want the Departmental Committee on Trade, Industry and Cooperatives to think about is removing the Registrar of Companies from the State Law Office and take him or her to the Ministry of Trade, Investments, and Industry where he can properly deal with all these things.

The Temporary Chairman (Hon. Farah Maalim): Member for Kinangop.

Hon. Kwenya Thuku (Kinangop, JP): Thank you.

I do not find this amendment necessary for a simple reason. Of course, there are articles and Memorandum of Association that we use to register companies at the Registrar of Companies. Therein we address the kinds of businesses we will carry out. It does not mean a company will be manufacturing immediately it is registered and captured as a manufacturing one. Therefore, we may burden the Director-General and the Registrar of Companies with much work to forward the information to KEBS. It is not necessary.

Finally, it is the obligation of the manufacturer to register their products with the standards body for certification. I do not think we are making it easy to business people by obligating the Director-General and the Registrar of Companies to forward such information to KEBS. I think that this amendment or addition is unnecessary.

The Temporary Chairman (Hon. Farah Maalim): I do not see any further interest. Clarify. Leader of the Majority Party, are you too busy consulting?

Hon. Kimani Ichung'wah (Kikuyu, UDA): No. I was explaining to the Member for Mathira the question that Hon. Mwenje had asked. Indeed, it is true that it is exactly the

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intention. I do not think it will be too cumbersome for KEBS, as Hon. Oundo says, in this era of information sharing. I understand what Hon. Oundo is saying. In actual fact, people register companies to construct roads and classrooms. Hardly do people register companies to manufacture if they do not intend to do so.

Therefore, as the Chairperson is whispering, all this information is on eCitizen. It can be shared and it is beneficial to KEBS. We sought that purpose in Clause 20, that KEBS gets that information.

The Temporary Chairman (Hon. Farah Maalim): Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): With the eCitizen issue the Leader of the Majority Party has raised, I wonder why we should use the word “submit”. Can they just go to the records and get information? I would suggest you substitute the word “submit” with something else. It is readily available digitally.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

*(Question, that the new clause be
added to the Bill, put and agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairman (Hon. Farah Maalim): Hon. Members, we have come to the end of the Bill. I ask the Mover of the Bill to move reporting.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the Business Laws (Amendment) Bill (National Assembly Bill, No.49 of 2024) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE TAX LAWS (AMENDMENT) BILL
(National Assembly Bill No.47 of 2024)

The Temporary Chairman (Hon. Farah Maalim): Hon. Members, we are going to a second Bill which is the Tax Laws (Amendment) Bill (National Assembly Bill No.47 of 2024). Where is the Chairman of the Departmental Committee on Finance and National Planning?

Clause 3

The Temporary Chairman (Hon. Farah Maalim): Chairman, you have amendments. Hon. Kimani.

Hon. Kuria Kimani (Molo, UDA): The syllabus is running very fast.

I beg to move:

THAT, Clause 3 of the Bill be amended in paragraph (b) by inserting the following sub-paragraph immediately after sub-paragraph (i)-

(ia) by inserting the following new paragraph immediately after paragraph(f)-

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(fa) any amount paid or granted to a public officer pursuant to any written law or statutory instrument, with effect from 27th July 2022, to reimburse an expenditure incurred for the purpose of performing official duties, notwithstanding the ownership or control of any assets purchased:

This amendment seeks to exclude grants issued to public officers for the purpose of performing official duties from the meaning of gains or profits for the purpose of assessment of income tax provided in section 5 of the Income Tax Act.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 3 as amended agreed to)

Clause 4

The Temporary Chairman (Hon. Farah Maalim): Mover. There is an amendment by Hon. Patrick Makau. Is he in the House? Hon. Kimani.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 4 of the Bill be amended in the proposed new subsection (4), by deleting the word “goods” appearing immediately after the words “digital content monetisation”.

This amendment is seeking to remove the proposed withholding tax on payment for goods which will undermine tax collection. Indeed, that is not how to meet the expected increase in revenue. Withholding tax on goods will automatically reserve MSME formal digitisation, reduce economic activity in the digital economy while increasing offline activities and hinder the tax base expansion strategy and the bottom up transformation agenda objectives.

The provision in the Bill was where a business is selling goods both on an online platform and physically in the shop, then the one being sold online would attract withholding tax and not the one being sold physically at the shop. This would really affect electronic commerce (e-commerce) and that is why the Committee is proposing deletion of that word goods.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, Jubilee): Thank you, Hon. Temporary Chairman. I stand to support that amendment, and I commend the Committee for the deletion. We know a lot of young people are trading online. Nowadays you do not have to go to a shop. You just have to go online and order for anything you want from clothes to food stuff. I support the deletion and commend the Committee for the good job.

The Temporary Chairman (Hon. Farah Maalim): Anybody else who has an interest on this one?

(Question, that the word to be left out be left out, put and agreed to)

The Temporary Chairman (Hon. Farah Maalim): Hon. David Kiplagat, you had something.

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Hon. David Kiplagat (Soy, UDA): It is on Clause 25. Unless I do not know, I am moving it right away.

The Temporary Chairman (Hon. Farah Maalim): It was wrongly numbered, you are right. It is deletion of items on imported ceramic sinks and floors.

(Clause 4 as amended agreed to)

Clause 5

The Temporary Chairman (Hon. Farah Maalim): Chairperson, Finance and National Planning Committee.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chair, I beg to move:

THAT, Clause 5 of the Bill be amended in subsection (3) by inserting the following new paragraph immediately after paragraph (c) - “(d) to a non-resident person with an annual turnover of less than five million Kenya shillings.”

The amendment is seeking to set a threshold for the non-resident person liable to pay the significant economic presence tax of Kenya. Here, we are setting the definition of what that economic significance tax is to an institution, business, or company that has a turnover of Ksh5 million per year. The reason we picked on Ksh5 million is that it is the Value Added Tax (VAT) threshold. We tried to be consistent here like what we did in the Tax Procedures (Amendment) Bill in the morning, where we are now exempting MSMEs that have a threshold of below Ksh5 million, which is a VAT threshold. It is the same thing here for significant economic presence.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 5 as amended agreed to)

(Clauses 6, 7, 8, 9, 10, 11 and 12 agreed to)

Clause 13

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 13 of the Bill be amended in paragraph (a) by inserting the following new paragraph immediately after paragraph (s)-
(t) sale of scrap.

The amendment seeks to introduce withholding tax in respect to payments made by a non-resident for the sale of scrap metal. It will achieve the objective of raising revenue for the country.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

The Temporary Chairman (Hon. Farah Maalim): Hon Makau had an amendment to this Clause, but since he is not around, his amendment is dropped.

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(Proposed amendment by Hon. Patrick Makau dropped)

(Clause 13 as amended agreed to)

Clause 14

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:
THAT Clause 14 of the Bill be amended—

(a) by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) in paragraph 57 by deleting the words “income or”;

(b) by deleting paragraph (c);

(c) by deleting paragraph (d);

The amendment seeks to do three things. First, it will remove the exemption from income tax of a registered family trust. The amendment will achieve the objective of raising revenue for the country and retaining the exemption from tax of capital gains relating to the transfer of any title of removable property to a family trust.

Second, it shall also protect and encourage the establishment of family trusts, which are considered a succession tool and vehicle.

Third, it shall retain the provision on bonds, which are exempted from income tax, which will encourage investment in Kenya, especially in green bonds, which promote protection of the environment. That is why we are deleting the proposed withholding tax on infrastructure bonds.

We are also deleting the proposed tax on transfer of assets to a trust fund, but also ensuring that where that trust fund is an established business, the income will be subjected to taxation, but not the transfer of assets from either a company or an individual to a family trust.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Yes, Hon. Lang’at Benjamin.

Hon. Benjamin Lang’at (Ainamoi, UDA): Hon. Temporary Chairman, I support the amendment on the interest on infrastructure and green bonds not being taxed. That will encourage many Kenyans to invest and contribute to their country’s economy.

Creation of family trusts is a succession planning tool where people create trusts for their children in future. It is not about transferring property outside the family. It is just creating a trust for and on behalf of their children.

The Temporary Chairman (Hon. Farah Maalim): Hon. Members, Hon. Patrick Makau had an amendment to this Clause. However, because he is not here to move it, the amendment is dropped.

(Proposed amendment by Hon. Patrick Makau dropped)

Hon. Makilap.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Temporary Chairman. I rise to support those amendments, especially the one on the green bonds. When the worst comes to the worst, we can raise resources to fund our programmes through such infrastructure bonds. Therefore, we should exempt them from taxation, so that there is room for doing business.

I support the amendments.

The Temporary Chairman (Hon. Farah Maalim): Hon. Oundo.

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Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Chairman. I commend the Chairman of the Committee because when he was moving the Bill, he indicated the amendments he was going to move as a result of public participation. It is good that he has kept his word and I hope he will keep it throughout. We pray and hope so. We are waiting for him to keep his word throughout.

Thank you, Hon. Temporary Chairman.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 14 as amended agreed to)

Clause 15

The Temporary Chairman (Hon. Farah Maalim): Hon. Patrick Makau had four amendments, but he is not around to prosecute them. Those amendments are dropped.

(Proposed amendments by Hon. Patrick Makau dropped)

Hon. Chairman, you have an amendment.

Hon. Kuria Kimani (Molo, UDA): Thank you Hon. Temporary Chairman. I beg to move:

THAT, Clause 15(b) of the Bill be amended—

(a) in subparagraph (i) by—

(i) by deleting subparagraph (w);

(ii) by inserting the following sub-paragraph immediately after sub-paragraph (v)-

(va) in respect of the sale of scrap, one and a half percent (1.5%) of the gross amount;

(b) in sub-paragraph (ii) by deleting paragraph (A).

This amendment is similar to what we have done above, that is, to retain the exemption of bonds from Income Tax to promote investments in the country, especially for green bonds which encourage conservation and protection of our environment.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 15 as amended agreed to)

(Clause 16 agreed to)

New Clause 14A

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THAT, the Bill be amended by inserting the following new clause immediately after clause 14-

Amendment of the Second Schedule to Cap.470.	14A. The Second Schedule to the Income Tax Act is amended in paragraph (1A) by deleting the words “two billion shillings” wherever it appears and substituting therefor the words “one billions shillings”.
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(The new clause was read a First Time)

The Temporary Chairman (Hon. Farah Maalim): Move the Second Reading of the new clause.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairman. I beg to move that New Clause 14A be now read a Second Time.

This amendment seeks to reduce the cumulative investment value from Ksh3 billion to Ksh1 billion shillings for investment deduction at 100 per cent. This honourable House gave an incentive for investment deduction over the years for investments outside Nairobi. We capped it at Ksh5 billion in 2021. There was no uptake because Ksh5 billion was too high. Last year, we reduced it to Ksh2 billion. Again there was no uptake because Ksh2 billion was too high. During public participation, we were told that if we reduce it to Ksh1 billion we would get investors who are willing to set up manufacturing and businesses worth, at least, Ksh1 billion outside Nairobi. That way, we can decongest businesses in Nairobi.

(Question, that the new clause be read a Second Time, proposed)

The Temporary Chairman (Hon. Farah Maalim): Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, Jubilee): Hon. Temporary Chairman, I support that proposal. It is important that we encourage investors to invest outside Nairobi. Apart from what the Chairman has raised about decongesting Nairobi, we already have devolved governments. We fear people who set up industries and invest outside Nairobi, say, in Murang’a, Mombasa, Turkana and other counties. Our young people will be employed. This is a very good move. The amount of Ksh1 billion is reasonable. If I was asked, I would have said even Ksh500 million so that majority could be attracted to invest, but we will see whether Ksh1 billion will be attractive enough. As we go out, we empower more Kenyans.

I support the amendment, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Hon. Makali Mulu.

Hon (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Temporary Chairman. I support this amendment or this new clause because as it has been said, it will assist manufacturing to go down on the ground. I am very interested, particularly, in my county, Kitui. We want to see more companies investing there. The proposed Ksh 1 billion seems reasonable.

I support the amendment.

The Temporary Chairman (Hon. Farah Maalim): Hon. Oundo.

Hon (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, this is a very commendable incentive. In the fullness of time, we need to start working out the impact of tax expenditures. Africa is very proud of giving out tax expenditure and incentives that have no reasonable value to Kenyans. Over time, we must calculate the impact of tax expenditures. I do believe, other than employment, most of these investments have really no impact in the economy of any given country.

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The Temporary Chairman (Hon. Farah Maalim): Member for Kinango, followed by Hon. Atandi.

Hon. Gonzi Rai (Kinango, PAA): Thank you, Hon. Temporary Chairman. This will be a relief to investors who want to go where raw materials are. There has been rural/urban migration over time. We now have devolved governments. Manufacturers can now set up their industries in our counties where labour is cheaper and there is availability of raw materials.

The Temporary Chairman (Hon. Farah Maalim): Hon. Atandi.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Chairman, I support this amendment. We need to decongest the cities, especially Nairobi. To do this, we must give meaning to the counties by allowing some of these potential investors to set up industries in the counties, so that people do not move from their counties to Nairobi to look for opportunities.

I support the amendment.

The Temporary Chairman (Hon. Farah Maalim): Member for Mbooni.

Hon. Kivasu Nzioka (Mbooni, WDM): Hon. Temporary Chairman, I support this move. Some counties like Kitui have a lot of limestone. Some of these cement factories go to Kitui to collect that raw material and then they bring it to Nairobi for processing. So, this is a very good move for the companies to move to the rural areas.

Thank you very much.

(Question, that the new clause be read a Second Time, put and agreed to)

(Question that the new clause be added to the Bill, put and agreed to)

Clause 2

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)—

(ea) by deleting the definition of “wife’s employment income rate”;

I had explained this amendment earlier. For a very long time, the Income Tax Act required a husband to report even the income of the wife. However, we deleted that proposal last year. This amendment cleans it up further so that husbands are not required to declare the incomes of their wives in the Income Tax Act.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Member for Embakasi. Is it Embakasi East or West?

Hon. Mark Mwenje (Embakasi West, JP): Embakasi West.

The Temporary Chairman (Hon. Farah Maalim): Should I call you Hon. Mwenje because the late Hon. Mwenje was my good old friend?

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Or should I say Mwenje because that was my good old friend. Proceed.

Hon. Mark Mwenje (Embakasi West, JP): That is in order, Hon. Temporary Chairman.

I like this amendment, but it talks of wife’s employment income. Does that mean the wife can declare the husband’s income? What if the wife is declaring yet she is required to

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declare the income of the husband. This is to save a Member here who is laughing and those who have spouses here.

I am hoping the Chairman of the Departmental Committee on Finance and National Planning, Hon. KK, is listening. Why use the word “wives” instead of spouse’s employment income rate? Why?

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman, you have a serious issue to attend to. Why wife and not spouse?

Hon. Kuria Kimani (Molo, UDA): That is why I have explained...

Hon. Irene Mayaka (Nominated, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order?

Hon. Irene Mayaka (Nominated, ODM): Hon. Temporary Chairman, the Member is discriminating against women. Why is he assuming that the spouse that has money cannot be the woman who can take care of the husband? It cannot be wives. Just say 'spouse' so that it is either way.

The Temporary Speaker (Hon. Farah Maalim): Are you on a point of order, Hon. Member for Turkana?

Hon. John Namoit (Turkana South, ODM): I want to support the amendment. This is just a clean up exercise of the Income Tax Act. Initially, the income of the wife was deemed to be that of the husband and that of the wife was assessed to the husband. The Income Tax Act also recognises wife as a person who pays income or assessed on her own. In this case, what is the difference between a spouse and a wife? Personally, I have four wives. In any case, that was the term that was previously used.

The Temporary Chairman (Hon. Farah Maalim): Chairman, you were about to give important explanation.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, as I mentioned, the Income Tax Act, as it is, was providing for the husband to declare the income of the wife. That is what the law has been for very many years. Of course, you would expect that those many years ago the society was not as progressive as it is now. So, the tax of the wife was supposed to be declared by the husband.

This honourable House, in the Finance Act of 2023, removed that provision and stipulated that everyone should report their own taxes—the husband to report his taxes and the wife to report hers. However, when passing that law, the definition was not clear. That is why this proposal is now providing clarity so that wives and husbands report each their own. For a very long time, the income tax had provided that the husband had to declare the wife’s income when they are making their declarations.

Hon. Eric Wamumbi (Mathira, UDA): On behalf of the men who have spouses here, that amendment is very well explained and I support it. Let the wives also... Hon. Nelson Koech has also supported.

The Temporary Chairman (Hon. Farah Maalim): Hon. Sabina Chege, proceed. You have the Floor. The Member for Turkana has said he has four wives. So, four of them are going to report on him. Proceed.

Hon. Sabina Chege (Nominated, JP): Thank you, Hon. Temporary Chairman. On behalf of us wives, we want to thank you. Sometimes, not everything you have is fully disclosed to your spouse, and it can be held against the person if they did not know there was no full disclosure. The issue with husbands reporting on behalf of their wives is that we are now in a new era where everyone owns their own property and goes to work. We no longer have women as housewives waiting for the man to bring everything home. With this recognition, we fully support the idea that both husbands and wives should report on their own. Hon. Wamumbi, let

your wife report on her own. We are very happy. This is a new generation. We are no longer in the kitchen. We can stand on our feet.

Hon. Eric Wamumbi (Mathira UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, Hon. Wamumbi?

Hon. Eric Wamumbi (Mathira UDA): Hon. Temporary Chairman, the spirit behind that amendment is not what Hon. Sabina Chege is talking about. The spirit is not about wives hiding property from their husbands. The spirit is everybody to declare for themselves. Hon. Sabina Chege is bringing a very dangerous spirit.

Thank you.

Hon. Members: Put the Question!

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Osoro!

Hon. Sabina Chege will be protected by the Chair. Proceed Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, JP): Thank you, Hon. Temporary Chairman. I do not know why the men in this House are purporting to be wives. They are now speaking on behalf of wives. As I have said, a wife may have not disclosed everything and the husband will be held responsible. So, it is saving men. It is not for any ill intention. It is a nice proposal and I support it.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 2 as amended agreed to)

(Clause 17 agreed to)

Clause 18

The Temporary Chairman (Hon. Farah Maalim): The Chair of the Departmental Committee on Finance and National Planning, you have an amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairperson. I beg to move:

THAT, Clause 18 be amended by inserting the following new paragraph immediately before paragraph (a)-

(aa) in subsection (5) by inserting the following new paragraph immediately after paragraph (e)—

(ea) (ea) in the case of a taxable supply that is zero-rated or exempted, such excess arose on account of permanent credit position in favour of a registered person due to the difference between the rate applicable on the 1st July, 2022, and a lower rate of tax and that such credit position existed on the date that the taxable supply became zero-rated or exempted.

This amendment is addressing where there has been a change of law from exempt and zero-rated. During that time, they have not been claiming their input VAT. Companies that are on permanent credit position will be allowed to claim back their input VAT.

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 18 as amended agreed to)

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(Clause 19 agreed to)

Clause 20

The Temporary Chairman (Hon. Farah Maalim): Hon. Chair.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairperson. I beg to move:

THAT clause 20 of the Bill be amended—

- (a) in paragraph (a)—
- (i) by deleting subparagraph (i);
 - (ii) by deleting subparagraph (ii);
 - (iii) by inserting the following new subparagraph immediately after subparagraph (ii)—
 - (iia) in paragraph 57, by inserting the words “National Intelligence Service, the Defence Forces Welfare Services” immediately after the words “Kenya Defence Forces”;
 - (iv) by deleting subparagraph (iii);
 - (v) in subparagraph (iv) in the proposed new paragraph 69 by inserting the words “adult diapers” immediately after the words “baby diaper”;
 - (vi) by deleting subparagraph (vi);
 - (vii) by deleting subparagraph (vii); and
 - (viii) by deleting subparagraph (ix) and substituting therefor the following new subparagraph—
 - “(ix) by deleting the proviso appearing in paragraph 146 and substituting therefor the following new proviso—
 - Provided that the value of such investment is not less than two billion shillings, and the exemption was granted before 01 January 2024 and shall continue to apply for twelve months after this date
 - (ix) in subparagraph (x) by inserting the following new paragraphs immediately after paragraph 152—
 - “153. The supply of denatured ethanol of tariff number 2207.20.00.
 - 154. Taxable goods of chapter 5407 and chapter 6309 imported as raw materials for manufacture of textile products in Kenya upon recommendation of the Cabinet Secretary responsible for investment, trade and industry.
 - (x) by inserting the following new subparagraphs immediately after subparagraph (x)—
 - “(xi) by deleting paragraph 57 and substituting therefor the following new paragraph—
 - (57) All goods including material supplies, equipment, machinery and motor vehicles, for official use by the Kenya Defence Forces, the Defence Forces Welfare Services, and the National Police Service.
 - (xii) by deleting paragraph 101 and substituting therefor the following new paragraph—
 - (101) Alcoholic or non-alcoholic beverages supplied to the Defence Forces Welfare Services.”
- (b) in paragraph (b)—

- (i) by deleting sub-paragraph (i);
- (ii) by deleting subparagraph (ii);
- (iii) by deleting subparagraph (iii);
- (iv) by deleting subparagraph (iv).
- (v) by deleting subparagraph (v).

This is where the Committee disagrees with the national Treasury on moving these items from being exempt to standard rate, even after the public participation exercise. The items are aeroplanes and other aircrafts.

We have space craft and other aircraft spare parts that are specially designed, and locally assembled motor vehicles for transportation of tourists. This is about retention of VAT exemption status for the supply of importation of these goods, which is supposed to encourage growth of the aviation industry and aid the generation of revenue for our country. This will also help our national carrier, Kenya Airways (KQ) to continue making profits.

The VAT exemption status of capital goods by the Cabinet Secretary is providing for a profit of not less than Ksh2 billion to promote the cooking fuel industry. This will reduce household costs by exempting denatured ethanol. It will also promote local manufacturing by VAT exemption on raw materials for manufacture of textiles. There is VAT exemption of goods for official use by Kenya Defence Force (KDF) Welfare Services and air ticketing services supplied by travel agents. We found this would hurt the tourism sector.

In addition, there is VAT exemption on transfer of business so that we can encourage business structuring. If you want to transfer your business to someone else, that will now be exempted from VAT.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): Where is Hon. Kaguchia? I thought he had an interest in this. Pronounce yourself on the amendments because they might be dropped.

Hon. Kaguchia John (Mukurweini, UDA): Hon. Temporary Chairman, I beg to move: THAT, Clause 20 of the Bill be amended in paragraph (b) by—
(a) deleting sub-paragraph (ii); and
(b) deleting sub-paragraph (iv).

In Clause 20 we are deleting (a) sub-paragraph (ii) and (b) sub-paragraph (iv). The import of this is to drop taxation of national park entrance fee.

The Temporary Chairman (Hon. Farah Maalim): Hon. Kaguchia, you should first comment on the proposed amendments by the Chairman of the Departmental Committee on Finance and National Planning. If his amendments are carried yours will be dropped.

Hon. Kaguchia John (Mukurweini, UDA): He supported my proposal on dropping taxation of national park entry fees. This will help us promote domestic tourism.

The Temporary Chairman (Hon. Farah Maalim): So, you are supporting his amendments?

Hon. Kaguchia John (Mukurweini, UDA): Yes, I support. What about Hon. Muriu?

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Yes.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Chairman. I seek your guidance. This is because on the Order Paper, the amendment by Hon. Kaguchia is subject to Article 114 of the Constitution.

The Temporary Chairman (Hon. Farah Maalim): He has already dropped it. I agree with you entirely and taken note. He is not pursuing it any further.

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Hon. Kimani Ichung'wah (Kikuyu, UDA): He is not pursuing it any further?

The Temporary Chairman (Hon. Farah Maalim): Yes, he is not pursuing it any further.

Hon. Kimani Ichung'wah (Kikuyu, UDA): I have not heard him dropping it.

Hon. Members: He has dropped it.

Hon. Kimani Ichung'wah (Kikuyu, UDA): He has supported the...

Hon. Kaguchia John (Mukurweini, UDA): Thank you, Hon. Temporary Chairman. I have dropped it because the Chairman of the Committee agreed with my proposal to stop this taxation. So, I drop it on that understanding.

*(Proposed amendment by
Hon. Kaguchia John dropped)*

The Temporary Chairman (Hon. Farah Maalim): Hon. Muriu do you also intend to drop yours or it is a different one?

Hon. Wakili Edward Muriu (Gatanga, UDA): Thank you, Hon. Temporary Chairman. Mine is a different one on a new clause.

The Temporary Chairman (Hon. Farah Maalim): Okay. Let us finish with this one.

(Hon. Samuel Atandi spoke off the record)

Yes, Hon. Atandi.

Hon. Samuel Atandi (Alego Usonga, ODM): I want to oppose the amendment by the Chairman. Betting is a sin activity and we should overtax it. The moment we reduce taxes on betting, we are encouraging our youth to idle around and just bet. So, I oppose the idea of making betting easier. I want to urge the Chairman to drop this amendment and Hon. Members should support me. We need to ensure that betting is as expensive as possible so that youths do not engage in it. However, here, we are making it easier. Let us reject this amendment.

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani, he is addressing you, and you should be listening.

(Hon. Kimani Ichung'wah consulted with Hon. Kuria Kimani)

The Leader of the Majority Party, give this man a bit of a break, a slack. The import of his contribution is that betting is a sin and if you give tax breaks to it, you are encouraging our young people to go into it.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, the proposal was to introduce VAT to the betting service. We have engaged on this matter a lot and people are moving from betting on our Kenyan firms to bet online. For example, if you open a company in Uganda and operate an online platform, the same habit continues but you do not generate any revenue. You can operate the business from anywhere as it has been demonstrated.

The betting firms' systems are integrated with the Kenya Revenue Authority, which means that the leakages in taxation that we have seen over the years have now been sealed. KRA has a real-time view of the transaction on this platform. It is about balancing something legal in the country, collecting revenue from it, or making the rates too high and moving jurisdiction, the habit continues and we do not raise any revenues from these transactions.

The Temporary Chairman (Hon. Farah Maalim): Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, just to inform Hon. Atandi that in the Bill, we are also increasing Excise Duty on betting from 12.5 per cent to 15 per cent. That is to persuade him to support the Hon. Chairman on that amendment.

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The Temporary Chairman (Hon. Farah Maalim): Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Chairman.

I had an amendment to this effect because initially, the Bill as was published, was going to introduce VAT to betting services. I had not seen the Report until much later today, and wish to disagree sharply with my neighbour here, Hon. Atandi. This is a sector which some of us understand. For example, this evening Arsenal will be beating Manchester United and there are many bets that have been placed this evening by players.

Hon. Kuria Kimani (Molo, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, Hon. Chairman?

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, is the Member in order to misinform this House that Arsenal will beat the great Manchester United in a game this evening?

(Laughter)

You should rule him out of order. Arsenal is a very small team, and will be defeated by Manchester United.

The Temporary Chairman (Hon. Farah Maalim): Order, Members. That is off the record. That is candour and banter. Let us be serious. Please, conclude.

Hon. Mark Mwenje (Embakasi West, JP): I do not want to back that issue. My point is that if we keep increasing the cost of betting in our country, we are going to force these people who bet to go to the underground market, the black market. Some of these companies, like the Betika and SportPesa, already offer a lot of Corporate Social Responsibility (CSR). Every time you squeeze them, they reduce the funding that they give to CSR. People will also start betting offshore, and we are going to lose money in the long run.

I am, therefore, dropping my amendment.

(Proposed amendment by Hon. Mark Mwenje dropped)

The Temporary Chairman (Hon. Farah Maalim): Yes, because it has already been taken care of. Member for Mbooni, I think we have done sufficient justice to this issue. Hon. Wakili Muriu, proceed. You had an amendment. Has it been taken care of by the Chairman's amendment? Are you satisfied?

Hon. Wakili Edward Muriu (Gatanga, UDA): Yes, Hon. Temporary Chairman. There are a number of amendments and one of the amendment is inserting New Clause 16A.

The Temporary Chairman (Hon. Farah Maalim): Do we have that in the Order Paper?

Hon. Wakili Edward Muriu (Gatanga, UDA): Yes, Hon. Temporary Chairman. It is in the Order Paper as a new clause.

The Temporary Chairman (Hon. Farah Maalim): Are you proposing to delete paragraph 151? You can prosecute it.

Clause 20

Hon. Wakili Edward Muriu (Gatanga, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 20 be amended in subparagraph (x) of paragraph (a), by deleting the proposed new paragraph 151 (Fertilizers of Chapter 31).

My proposal here is to have clause 20...

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(Hon. Kuria Kimani consulted loudly)

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani, please listen.

Hon. Wakili Edward Muriu (Gatanga, UDA): My proposal here is to have Clause 20 amended in sub-paragraph (x) of paragraph (a) by deleting proposed new paragraph 151 which touches on fertilisers on Chapter 31. I propose that amendment because we are saying that we are removing fertilisers from being zero-rated to tax exempt. I have had a conversation with the Chairman of the Departmental Committee on Finance and National Planning and he assured me that the moment we go that direction, VAT would be passed on to the farmers making a fallacy of the Government policy of reducing the cost of farming. We already have subsidised the fertiliser programme so when you introduce the tax on the other hand, it makes a fallacy of that policy. But the Chairman has assured me that in his amendment, he has done ‘exempt exempt’ of the fertiliser in such a way that there would be no taxes on fertiliser which come in to increase its cost again.

The Temporary Chairman (Hon. Farah Maalim): That is fair enough. In that case, let us listen to the Chairman.

(Question of the amendment proposed)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I would like to give Hon. Muriu the comfort that this is something that the Departmental Committee on Finance and National Planning has already deliberated on. Tax expenditures and revenue leakage are a huge expense in this country. Additionally, most of these zero-rated ones are not sustainable. However, we need to be very careful not to increase the cost of very essential products like fertiliser or agricultural inputs. Hon. Muriu, what we have done on page 1025 of the Bill, Clause 20(10) - which is the last item on that page - is we have inserted the following new paragraphs immediately after paragraph 148: “all imported inputs and raw materials supplied to the manufacture of agricultural pest control products, upon recommendation by the Cabinet Secretary for the time being responsible for Agriculture, agricultural pest control products, fertiliser of Chapter 31 and input of raw materials locally purchased or imported by manufacturers of fertiliser as approved”. So, we are making all the raw materials for fertiliser and agricultural pesticides to be exempt.

There is no increase in cost if we exempt the raw material and the finished product. The risk would be if we took it to a standard rate or exempted products without exempting raw materials. That way, you go to exempt raw materials and finished products. That does not lead to an increase in cost but also reduces our tax expenditures.

The Temporary Chairman (Hon. Farah Maalim): The amendments by Hon. Patrick Makau are also dropped because he is absent.

(Proposed amendments by Hon. Patrick Makau dropped)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Question, that the words to be left out be left out, put and agreed to)

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(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 20 as amended agreed to)

Clause 21

The Temporary Chairman (Hon. Farah Maalim): Chairman of the Departmental Committee on Finance and National Planning

Hon. Kuria Kimani (Molo, UDA): I would like to drop the amendment. The decision was to exempt the raw materials of manufacturing feeds so that we reduce the cost of animal feeds. However, we found something on checking the current provisions in law. Page 28 of the VAT Act, the First Schedule on exempt supplies, provides for those products. All inputs for manufacturing feeds are already exempt from VAT. Therefore, there is no need for the new provision in Clause 21. That is why we are dropping it.

*(Proposed amendment by
Hon. Kuria Kimani withdrawn)*

The Temporary Chairman (Hon. Farah Maalim): Hon. Wakili Muriu, have you dropped your amendment?

Hon. Wakili Edward Muriu (Gatanga, UDA): As explained by Chair, I also drop the amendment proposed in Clause 21.

*(Proposed amendment by
Hon. Wakili Edward Muriu withdrawn)*

(Clause 21 agreed to)

New Clause 16A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 16-

Amendment
of section 5 of
Cap. 476.

16A. Section 5 of the Value Added Tax Act is amended by inserting the following new subsections immediately after subsection 3-

“(3A) Notwithstanding any other provision in this Act, in case of a contract for the supply of goods or services to a procuring entity under any written law-

- (a) the procuring entity shall be liable to pay the tax and other payments due under this Act, if the entity fails to make payment to the registered person within the prescribed time for the supply of such goods or services;
- (b) the registered person shall henceforth be discharged of the liability to pay that tax; and
- (c) the amount for the supply paid by the procuring entity to the registered person shall be less the amount of tax paid by the entity under paragraph (a)-

“(3B) For purposes of subsection (3A), if the prescribed period for payment for the supply of goods or services falls beyond the date on

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which the resultant tax is due from the registered person under section 19, and payment for the supply is thereafter made as per the prescribed period, the registered person shall be exempt from payment of the resultant penalty for late payment of tax with respect to that supply.

“(3C) In this section, the term “procuring entity” has the meaning assigned to it in the Public Procurement and Asset Disposal Act.”

(Subject to Article 114 of the Constitution)

(The new clause was read a First Time)

The Temporary Chairman (Hon. Farah Maalim): I now call upon Hon. Wakili Muriu to move Second Reading of New Clause 16A.

Hon. Wakili Edward Muriu (Gatanga, UDA): Thank you, Hon. Temporary Chairman.

This is a new clause brought under Section 5 of the Value Added Tax Act. What is its gist? The gist of this clause is when a supplier supplies goods and services to a vendor or a buyer under the current law. He is supposed to file returns on every 20th and pay VAT at the end of the month, whenever he raises an invoice. He is supposed to pay VAT whether he has received money or not. The basic principles of law is that a supplier is an agent of the KRA. He receives and pays taxes on behalf of KRA. Tax default arises in instances where the vendor or buyer of goods has not paid.

The Temporary Chairman (Hon. Farah Maalim): Excuse, Hon. Wakili Muriu.

Hon. Wakili Edward Muriu (Gatanga, UDA): I am explaining, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): No. You have not followed certain strategic important steps. First, you should say “I beg to move that New Clause 16A be now read a Second Time”. Then, I will propose the question and then you can debate.

Hon. Wakili Edward Muriu (Gatanga, UDA): I am most obliged.

Hon. Temporary Chairman, I beg to move that the New Clause 16(a) be now read a Second Time.

The Temporary Chairman (Hon. Farah Maalim): Okay. Stop there.

(Question, that the new clause be read a Second Time, proposed)

You can now debate on it. Proceed to prosecute your matter. We have certain small rituals that we have to go through because this was from the Westminster system before. Go ahead.

Hon. Wakili Edward Muriu (Gatanga, UDA): Thank you, Hon. Temporary Chairman for guiding me. You are the fountain of knowledge especially in this House. Therefore, we derive a lot of knowledge from you.

Allow me to repeat that the New Clause 16A is being inserted on Section 5 of the VAT. It is coming to cure a serious problem in our economy, where if you are a supplier of goods and services and you have raised an invoice, on the 20th of every month you are supposed to file a return to the KRA. At the end of the month, you should pay the VAT whether you have been paid or not, as long as you have filed the returns and demonstrated that you have raised the invoice. This Clause is coming to cure that issue. This is because businesses have been borrowing money instead of expanding the business and employing more people to pay more

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taxes. They have been using that money and keeping overdrafts to pay the taxes. That is one issue.

The other issue is that the buyers of goods and services are not in a hurry to pay the supplier. That is why we have a serious issue of pending bills. That issue has been there because there is no penalty for delaying payments. This clause proposes that in the event that the buyer of goods has not paid at the prescribed time, the liability of paying that VAT and the subsequent penalties are paid by the buyer and not the seller. Currently, the seller is the one who pays that.

Secondly, it is high time we put in place the correct laws for ease of doing business. Businesses need to borrow money and have overdrafts to expand businesses as opposed to paying taxes.

I propose.

The Temporary Chairman (Hon. Farah Maalim): Yes, Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Chairman. While I see the intention of Hon. Wakili Muriu on this proposal, I foresee a very serious danger in it. It means that in the event of delays, whether it is by a public entity or private companies, it means that you automatically transfer this tax burden to the procuring entity. Eventually, you will just build up a whole issue of tax claims. You know that the issue of payments can at times be delayed because either the goods supplied are not of standard, or maybe there is a dispute that arises.

Unfortunately, I find it hard to support this proposal because I feel that it will be abused. This applies both to Government entities and also to the private sector.

Thank you.

The Temporary Chairman (Hon. Farah Maalim): Member for Garissa Township. Proceed.

Hon. Dekow Mohamed (Garissa Township, UDA): Thank you, Hon. Temporary Chairman. Let me support the amendment by Hon. Muriu Wakili. The standard practice as of now is that when you issue an ETR receipt for VAT to any entity that you supply goods and services to, you must remit that VAT to KRA. One of the biggest problem we are facing is payment especially by the Government itself that does not pay for the services we have offered as business people. Burdening the taxpayer who has supplied goods and services, especially to the Government, when the Government has not paid for them is not right. The Government has unpaid pending bills that have accrued for over two years. However, the taxpayer has already paid the VAT and a receipt has been issued to the procuring entity.

I support the amendment.

The Temporary Chairman (Hon. Farah Maalim): Leader of the Minority Party.

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Chairman, this amendment is good on the face of it because why procure when you do not have money? Why not wait until you get the money? This is a good amendment, but it will make it difficult for the Government because it thrives on other people's money. The Government does not have its own money. It is up to the Chairperson of the Departmental Committee on Finance and National Planning to decide.

(Laughter)

(Loud consultations)

(Several Members raised up their hands)

The Temporary Chairman (Hon. Farah Maalim): Hon. Kaguchia.

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Hon. Kaguchia John (Mukurweini, UDA): Hon. Temporary Chairman, I totally support the amendment by Hon. Muriu on the inclusion of New Clause 16A. Why request for goods when you cannot pay for them? I further propose that if you owe taxes and the Government has a pending bill owed to you, then the Government should be compelled to pay whatever taxes you owe it on your behalf. That will bring about discipline.

Look at how the National Government Constituencies Development Fund (NG-CDF) is run. One cannot procure goods or services if there are no funds in the NG-CDF. We should have the same arrangement at the national level, so that we can ensure the Government does not fleece business people.

Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): The Member at the back.

Hon. Michael Wainaina (Othaya, UDA): Thank you, Hon. Temporary Chairman. I rise to oppose the amendment. There are many business people in our country.

(Hon. Silvanus Osoro walked along the aisle)

The Temporary Chairman (Hon. Farah Maalim): Proceed. Do not worry about Hon. Osoro.

Hon. Michael Wainaina (Othaya, UDA): Hon. Temporary Chairman, business cuts both ways. The informal sector borrows from manufacturers. If the Bill passes, there will be many litigation cases in court because many people will charge that fee. Most people do not have the capacity to pay, but the Government does. However, business people who do not have the capacity to pay will be forced to close their businesses due to legal issues.

The Temporary Chairman (Hon. Farah Maalim): Member for Wajir West.

(Loud consultations)

Hon. Yussuf Farah (Wajir West, ODM): Hon. Temporary Chairman, I support the amendment by the Member. The clause affects business people who are always suffering. The KRA is making the lives of business people very difficult because someone procures goods without paying, and then the business person is forced to pay VAT on behalf of somebody who is not willing to pay. Therefore, the business person ends up being in danger. I support Hon. Wakili. We should support the amendment.

The Temporary Chairman (Hon. Farah Maalim): The Member at the back. He is one of the youthful Members of Parliament.

Hon. Josses Lelmengit (Emgwen, UDA): Hon. Temporary Chairman, I concur with Hon. Wakili Muriu. I support the amendment. A businessman recently complained to me that he had raised an invoice and an ETR receipt for the County Assembly of West Pokot. The ETR receipt was reflected at the Exchequer, yet he was not paid his dues. Right now KRA is on his neck following up on the tax yet he has not been paid the money. This will put businesses on their toes to be prompt in paying suppliers.

Thank you, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I share the views and sentiments of Hon. Muriu. Unfortunately, this matter has been a subject of a court battle for five years. On 5th February 2019, the Court of Appeal gave a ruling on the definition of the word 'paid'. The court ruling defined the word to be applicable only upon the actual delivery of money. The Court of Appeal overturned the precedent clarifying the term 'paid' as defined in the Income Tax Act encompasses not only actual payment but also amounts distributed, credited, dealt with or deemed to have been paid in the interest or on behalf of the person.

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Therefore, the definition of the word has already been given by the Court of Appeal. Therefore, this House cannot change the definition to what Hon. Muriu is saying. Already, the court has interpreted the law and said 'paid' includes an accrual.

The Temporary Chairman (Hon. Farah Maalim): Leader of the Minority Party, you already contributed.

Hon. Junet Mohamed (Suna East): I want to seek clarification from the Chairperson. I want to tell him that what the court provided is the definition of 'paid'. But that is a ruling of the court. Now, we are legislating for the court. We can put what the court is saying in a proper legislative framework. Are you saying the court ruling is a legislation?

The Temporary Chairman (Hon. Farah Maalim): Hon. Alice Ng'ang'a.

(Hon. Kuria Kimani spoke off the record)

Order. Who? But he is not on the Floor. I have given the microphone to Hon. Alice Ng'ang'a.

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Temporary Chairman. Many businesses have gone down because the taxman does not want to know whether you are paid or not. On 20th of every month, they are usually on businesses' necks. The only way to protect our businessmen and women is to make sure that Hon. Muriu's new clause is part of this Bill to protect sellers as well as buyers so that taxation is not on their necks.

Thank you.

The Temporary Chairman (Hon. Farah Maalim): The Member for Kinangop.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Chairman. I support the insertion of this new clause. Business people have suffered in this country in the hands of the Government and its entities. You supply goods, with the expectation that you are going to be paid in good time. Business people issue E-TIMS invoices. The moment you issue that invoice, you are deemed to have completed a sale and KRA takes charge. You are supposed to submit that money on the 20th day of the month. If you do not do that, then the amount starts generating penalties and interest. This amendment could not have come at a better time. I support.

The Temporary Chairman (Hon. Farah Maalim): Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, JP): Thank you, Hon. Temporary Chairman. I support Hon. Muriu's amendment. We all know what 'paid' means. We are talking about transactions. If you have not received payment, how then do you pay VAT unless you are assuming the person has money they are not using? The people who trade with Government know that sometimes Government services can stay for a very long time. It is important we listen to the proposal by Hon. Muriu. We can make it better.

I support the amendment.

The Temporary Chairman (Hon. Farah Maalim): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, in principle, I support Hon. Wakili Muriu's amendment. However, the danger we have is the question of discrimination. He talks about a procuring entity and makes reference to the Public Procurement and Asset Disposal Act. Therefore, it means that this law will only apply to Government entities because private companies are not procuring entities.

He should move the amendment in an amended form without referring to public procurement.

Hon. Wakili Edward Muriu (Gatanga, UDA): On a point of information, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Do you wish to be informed by Hon. Wakili?

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Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Yes, please.

Hon. Wakili Edward Muriu (Gatanga, UDA): Hon. Temporary Chairman, this is an amendment which cuts across both private and public sectors. It is not geared towards the public procurement absolutely. When people in private businesses raise their invoices and the due date of paying the VAT comes, they borrow money to pay it.

Secondly, Hon. Chairman has talked about...

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Wakili. You are on a point of information, but the Leader of the Majority Party is on a point of order.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, sorry I had to rush back. I was taking a cup of tea, since I have not eaten the whole day. I was watching this debate.

The Chairman of the Committee alluded to the fact that there is already a court ruling defining what is paid. That is one. Therefore, I want your guidance on whether we can legislate against such a court ruling.

Secondly, last week, this House legislated on moving Government accounting from cash-based accounting to accrual-based accounting. You have told us that we move accounting of taxes back to cash-based accounting. This House legislated on accrual-based accounting. Hon. Temporary Chairman, we need your guidance.

Thirdly, this amendment is again subject to Article 114 of the Constitution. I beg that you guide the House because we might engage in a very long debate that will end to a naught. We might end up in a debate where we legislate against what we legislated last week. The only reason the substantive Speaker agreed to the withdrawal of Clause 29 of the same Bill is purely on the basis that we had legislated on the Scrap Metal Council in the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.67 of 2023) only two months ago.

Therefore, it will be superfluous for this House to spend our time to discuss a clause that is subject to Article 114 of the Constitution. Secondly, it is a clause that we already legislated on a week ago. It is among the Bills the Head of State assented to this morning. They are now Acts of Parliament.

We need your guidance, Hon. Temporary Chairman.

(Loud consultations)

Hon. Junet Mohamed (Suna East, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members. Hon. Temporary Chairman is going to make a ruling on this.

Yes, Hon. Junet Mohamed.

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Chairman, I have listened to the Leader of the Majority Party very keenly. He has raised three issues. One, it is on whether we can legislate on a matter that the court has made a ruling on. It has also made a ruling on the NG-CDF Act, yet we are legislating on the same in this House.

(Applause)

We have formed a team of lawyers to come up with the legislation. The only issue that needs clarification from the Speaker is the issue of the accruing accounting system. But I have seen, time and again in this House, how Article 114 has been used to suppress legislation. This

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man is stating in his amendment that taxes should be due when I receive payment from the Government. How is the Government spending more money on that? This is because Article 114 is supposed to kick in if you bring an amendment where the Government is going to spend more money or incur expenditure.

This is a very clear case. The amendment by Hon. Muriu is that my taxes should be due when the Government pays me. I know I have Government taxes, but when I am paid, let me also pay. If you are demanding from the person money before even he is paid, can you imagine a situation where you have a pending bill of Ksh200 billion, and all those people have paid their taxes, but they cannot access their money?

Let us be fair also to people but if you are saying Government operates on other people's money, we can support you now on that basis, so that our Government can continue working.

(Loud consultations)

The Temporary Chairman (Hon. Farah Maalim): Order! Order, Hon. Members. I get the gist of the mood in the House. We, however, have laws, a Constitution and rules within which we operate. Article 114, unless or until such a time that it is either amended or repealed, will operate as part of the Constitution of this country. And it is very expressive.

It says:

- “(1) A money Bill may not deal with any matter other than those listed in the definition of “a money Bill” in clause (3).
- (2) If, in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter listed in the definition of “a money Bill”, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for finance.”

This is something that will have a fundamental impact on revenue collection in the country. Article 114 further says:

- (3) In this Constitution, “a money Bill” means a Bill, other than a Bill specified in Article 218, that contains provisions dealing with—
 - (a) taxes;
 - (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
 - (c) the appropriation, receipt, custody, investment or issue of public money;
 - (d) the raising or guaranteeing of any loan or its repayment; or
 - (e) matters incidental to any of those matters.
- (4) In clause (3), “tax”, “public money”, and “loan” do not include any tax, public money or loan raised by a county.”

What this means is that anything, including taxes that will fundamentally impact the country's revenue in whatever form cannot be debated. The Legal Department in Parliament has taken note of that. And in all these clauses on the Order Paper, it says, “subject to Article 114 of the Constitution.” There are a number of clauses it says subject to this. So, we cannot deliberate on this matter anymore without following the requisite constitutional steps that we have to follow.

I understand, and I sympathise and empathise with Kenyans. I am one of them. We have got outstanding loans, bills that are never paid, but we still went ahead and paid our VAT to the Government. This is what the Constitution says, and the Constitution reigns supreme in this case.

For this matter, this is dropped. This applies to all the subsequent amendments. It applies to Clauses 20, 21, 25, and anywhere else where these things appear.

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(Proposed amendment by Hon. Wakili Edward Muriu dropped)

(Loud consultations)

Order, Hon. Members. This applies to all the amendments including Clause 13. All the amendments with money issues have already been taken care of.

Hon. Junet Mohamed (Suna East, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Yes.

Hon. Junet Mohamed (Suna East, ODM): Thank you, Hon. Temporary Chairman. Your ruling is timely and I agree with it. The question that arises is: How did this amendment find itself on the Floor of the House? After scrutinising, it should have been subjected to Article 114 of the Constitution. This cannot be noticed after the Leader of the Majority Party has raised it on the Floor. It should have been at the processing period but there was a lapse.

How was the Member allowed to move an amendment on the Floor, which ought to have been subjected to Article 114 of the Constitution? This is being unfair to him. Even though, *yeye ni mtu wa Riggy G.*

(Laughter)

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members. This is understandable. I mean, this is a House of debate. Leader of the Majority Party, you must have a thick skin to take anything from your colleagues. The fact of the matter is that in the Order Paper there is a footnote that says, subject to Article 114 of the Constitution.

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Yes.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Is the Leader of the Minority Party in order to question your decision? This is a serious constitutional matter that relates to Article 114 of the Constitution. I am not the one who has raised it. In fact, it is on the Order Paper. I know Hon. Junet has just come in so maybe, he has not seen the Order Paper.

Secondly, this amendment as proposed by the Member for Gatanga, in its very nature is unconstitutional. This is because it is discriminatory and talking about procurement by public entities. So, if we create a provision that favours procurement processes and payments by public entities, what will happen to the business people who provide goods and services to private entities? Will they be treated in the same manner? I want to agree with Hon. Junet in a way, that this amendment should never have appeared on the Order Paper. It was unconstitutional *ab initio*.

Hon. Temporary Chairman, I thank you for your guidance. I think the Member for Gatanga is well guided.

The Temporary Chairman (Hon. Farah Maalim): Hon. Junet for one minute.

Hon. Junet Mohamed (Suna East, ODM): Thank you, Hon. Temporary Chairman. Leader of the Majority Party, this is a House of rules and procedures. This is not the first time we are doing the Third Reading of the Tax Laws (Amendment) Bill. Usually before we start, the substantive Speaker normally gives a communication that the following clauses are subject to Article 114 of the Constitution and have been dropped. This did not happen today.

So, if you did not rush back from having your tea and *mandazi*, we would have passed the amendment by the Member for Gatanga. Your tea was not sweet maybe you should have added more sugar. *Bure kabisa.*

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The Temporary Chairman (Hon. Farah Maalim): Hon. Junet, this far we have not transacted any business that is subject to Article 114 of the Constitution. We have not done anything unconstitutional. If we go ahead and pass the amendment by Wakili Muriu, my good old friend who is with me in the same Committee, it will be unconstitutional.

Can we bring this matter to an end? We cannot put a question on a matter that is unconstitutional. So, Wakili this amendment is dropped and dead.

*(Proposed amendment by
Hon. Wakili Edward Muriu dropped)*

(Clauses 22, 23 and 24 agreed to)

Clause 25

The Temporary Chairman (Hon. Farah Maalim): Hon. Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 25 of the Bill be amended—

(a) in paragraph (a)(i) (G) by deleting the item of description “Imported Electric transformers and parts of tariff codes 8504.10.00, 8504.21.00, 8504.22.00, 8504.23.00, 8504.31.00, 8504.32.00, 8504.34.00, 8504.90.00” and the corresponding rate of excise duty; and
(Subject to Article 114 of the Constitution)

(b) in paragraph (b) by deleting sub-paragraph (i).

Hon. Temporary Chairman, let me put the matter to rest. My engagement with KRA on that accrual was a question of, how would you tell when the payment was made? There are several ways of making payments. Some entities may make a payment in cash or do an electronic transfer and, therefore, making those taxes to be paid when the payment is made, will pose an administrative challenge in our collecting entity.

I also beg to move that Clause 25 be further amended on the issue of, “Imported electric transformers,” to mean, “Imported fully assembled electric transformers,” and to delete Clause 25(04) (90) from being subject to 25 per cent excise duty.

The import of this is to provide for local assembling of transformers instead of importing already finished transformers. Therefore, these codes are for those parts. As a country, this will enable us support local manufacturing as we reduce the cost of supplying electricity in Kenya, and also ensure that we support local manufacturing.

I also beg to move that I further amend the tax on imported proposed Excise Duty on ceramic sinks, wash basins to five per cent instead of 35 per cent, of the customs value or Ksh50 per kilogramme. On the float glass, to change that tariff code from 7005 to 7007 because 7005 is not available locally. We are making sure that we give an incentive to anything that is available so that it is locally manufactured.

Imported ceramics and wall tiles is a matter that has been of great public debate. If this amendment passes as it is recommended in the Bill; 35 per cent of custom value or Ksh300 per kilogramme, the true import of this is that it will increase the cost of our tiles from around Ksh1,200 to Ksh7000 which will make tiles completely unaffordable and would undermine the Affordable Housing Programme being done by the Government. Therefore, the proposal of the Committee is to further amend this, to have five per cent of customs value or Ksh200 per kilogramme. A box of tiles is around 1.5 kilogrammes to two kilogrammes. Therefore, increasing that to Ksh200 would mean that the cost will increase by roughly Ksh200 but at the same time, support local manufacturing of these items. Kenya has now demonstrated that it has the capacity to produce tiles locally.

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Lastly, we propose to reduce Excise Duty on coal from five per cent to 2.5 per cent and delete the Ksh27, 000 per metric tonne. Therefore, the rate that will apply if this House agrees with the amendment will be 2.5 per cent of the value.

I beg to move, Hon. Temporary Chairman.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Farah Maalim): We can debate it first. Let us dispose of his own amendment before we come to the amendment by the Hon. Chairman.

Hon. David Kiplagat (Soy, UDA): May I be heard?

The Temporary Chairman (Hon. Farah Maalim): I thought he was talking about the ceramics.

Hon. David Kiplagat (Soy, UDA): No. In fact, I am there and I think it is good if the Hon. Leader of the Majority Party allows me to be heard.

The Temporary Chairman (Hon. Farah Maalim): Now, are you contributing on the...

Hon. David Kiplagat (Soy, UDA): No. I have a further amendment on the Order Paper.

The Temporary Chairman (Hon. Farah Maalim): First, let us dispose of this amendment by Hon. Kimani. Proceed Hon. Leader of Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, just for clarity, I want Hon. Wamacukuru to listen to me because he is a consumer of ceramic tiles. For clarity, the Bill...

(Hon. John Kaguchia and Hon. David Kiplagat consulted loudly)

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Kaguchia.

Hon. Kimani Ichung'wah (Kikuyu, UDA): If the Hon. DK listened to me, he would even see it is pointless to move his amendment.

(Hon. Gichimu Githinji consulted loudly)

The Temporary Chairman (Hon. Farah Maalim): Order, the Member for Gichugu. Hon. Wamacukuru, Order!

Proceed, Hon. Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Chairman. I was saying that if Hon. DK and Hon. Wamacukuru listened to me, they would understand the Chairman's amendment better. The Bill had proposed to increase Excise Duty on ceramic tiles. I know that is a concern for many of us who build houses to create a provision where you are charging 35 per cent of excise value on the tiles or Ksh300 per kilogramme on the tiles. That would mean for a 30 by 30-centimetre box of tiles that is 22.5-kilogramme gross weight, you would have to pay an Exercise Duty of Ksh6,600. That box of tiles is probably in the range of Ksh1,250 to Ksh1,400. The Excise Duty would even be higher than the tiles' value. Almost four times.

The Hon. Chair is proposing to amend that by putting Excise Duty at Ksh200 per square metre. A carton of 30 by 30 tiles per square metre has 17 tiles. Those 17 tiles are 1.53 square metres. Calculating that will tell you that the box would increase not by Ksh6,600 but by Ksh306. If that box of tiles is at an excisable value of Ksh2,000, 5 per cent of Ksh2,000 would be Ksh100. So, the taxman will take the higher of the two either Ksh306 or Ksh100. Therefore, I want to prevail on Members that this is a very good amendment. What is the policy that that amendment is anchored on? As we legislate, let us ask ourselves, what policy are we anchoring whatever law we are legislating on? We are anchoring this proposal on a policy of import

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substitution and supporting local manufacturers without unnecessarily injuring even those traders who are trading in imported tiles. It is a win-win situation. The local manufacturer of tiles is protected. We are protecting our manufacturing industry, jobs and income that is being earned in this country. At the same time, we are not driving those who are importing tiles out of business. Therefore, I want to plead with Members, if you understand the Hon. Chairman's amendment from that explanation, please, this is a good amendment to support. I rise to support it.

Thank you.

The Temporary Chairman (Hon. Farah Maalim): Let us have Hon. Rutto.

Hon. Julius Rutto (Kesses, UDA): Hon. Temporary Chairman. I am speaking from the point of view and from the benefit of being a Member of the Departmental Committee on Finance and National Planning. We dispensed with this matter. To protect the local manufacturers, there is a nimble duty that is subjected to the same product which is being imported. And that one helps to protect the local manufacturer. Two, the number of our local companies that can meet Kenya's demand on local producers is not yet clear.

(Applause)

Three, this element is critical to construction. The Bill of Rights under Article 43 discusses the rights to own a decent house. The middle income Kenyans who are supporting construction utilise certain materials to ensure they access good housing. It would be punitive to make the cost of living higher. Already, the Excise Duty and promotion levy imposed on pellets has now increased the cost of construction and the cost of cement and everything. How far or how much are we going to go?

(Applause)

There is no certainty that production will be enough to lower the cost of construction.

Thank you. We must stick to the Committee's Report. It suggested a deletion. It must be deleted.

Hon. Members: Delete!

Hon. Junet Mohamed (Suna East, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, Leader of the Minority Party?

Hon. Junet Mohamed (Suna East, ODM): Chair, I keenly listened to the Leader of the Majority Party. Other than the policies on substituting local manufacturing with imported tiles that he is talking about, we have a huge and bigger Government policy on housing. It is going on. The Government wants to build 300,000 to 400,000 housing units in this country. I do not expect that programme to fail when there is a broad-based Government. You are now introducing negative taxation.

As a Member asked or said, how many companies produce tiles in this country? There are no more than two. No, they are two. It is SAJ Ceramics and another one. Now, do you think those two companies have enough capacity to supply all the houses being built in this country? Chair, I think we should leave the issue of tiles the way it was—not 5 per cent nor Ksh200. Let Kenyans build their homes first. We can tax them once done with homes.

(Applause)

Chair, with your permission, how much money are we going to raise from taxing people Ksh200 per square meter or per square feet of ceramic? Chair, this is scuttling. It will stifle homes and housing in this country. Very many small traders in the SMEs sector hibe their livelihood by selling tiles. There are small shops that deal with imported ceramic tiles in small villages. We are still dealing with chairs, beds, and those things. We have not reached the level of tiles. We cannot stop tiles from coming. We do not have the kind of tiles we need. I know even the Leader of the Majority Party needs imported tiles. I can tell you he will not use a local tile when he builds a house. We know each other. He will want a Spanish tile. I do not know why the guy is taxing people.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, Leader of the Majority Party?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Junet is misusing my name that I only use imported tiles. I use tiles manufactured by a manufacturer called SAJ Ceramics on Mombasa Road. They have a factory in Athi River. There is a reason I say that we must ask ourselves what is anchoring the legislation we are legislating. I want Members to listen to me because it is very good to be populist. However, we must ask ourselves whether what we are doing is right for our own economy. I say "our own economy" meaning the national economy, not our individual economies.

If you ask me, as Hon. Junet says, and for my personal economy, I would rather not even pay tax at all. I would even disclose here that I am a vendor of building materials. I am saying that if we are anchoring this provision around the policy of import substitution, we are importing our own dollars from this country to import tiles from the Far East at the expense of the people of Mukurweini Constituency whose clay is used in the manufacture of our tiles.

How unfair can we be to the people who have sent us to represent them here? That is why I am asking, if the National Treasury brought a Bill that proposed to levy taxes at the rate of Ksh6,600 per carton... The Chairman has proposed an amendment that... There is nothing out of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Leader of the Majority Party.

Hon. Kaguchia John (Mukurweini, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): What is your point of order, honourable?

Hon. Kaguchia John (Mukurweini, UDA): Hon. Temporary Chairman, the Leader of the Majority Party is alluding to the ball clay that is got from Mukurweini by the ceramic companies.

Does the Hon. Leader of the Majority Party know and understand that those companies are actually exploiting the people of Mukurweini? In fact, they are leaving holes and a lot of damages to the environment in Mukurweini Constituency. They are not bringing back anything...

The Temporary Chairman (Hon. Farah Maalim): Order Hon. Kaguchia. That is not a point of order, but an argument. Again, let us move forward. One thing is fundamental, however emotional or populist we get or empathetic and sympathetic we get for our people, anything that involves revenue issues cannot be deliberated in this House without Article 114 being fulfilled.

Member of Parliament for Mukurweini, you have got...

(Hon. Kaguchia John consulted loudly)

Order Kaguchia. First of all, we have amendments done by Hon. Kimani. Can we debate and dispose them of one way or the other?

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Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, I was cut short on a point that was not really one. In fact, the Hon. Member for Mukurweini has confirmed that indeed it is the people of Mukurweini that we seek to support because the clay that is coming from that constituency and many others across this country like in Machakos, Kitui and some in Murang'a in Kiharu Constituency with some few constituencies in Kiambu will benefit from this.

In conclusion the Bill had proposed taxes of up Ksh6,600 per carton of tiles. The Chairman has proposed taxes that the maximum it goes to for that carton is Ksh306. The 30 by 30 is the largest carton with 1.53 square metres. I know there was also the second bit that speaks to ceramic toilets and the other heavier items. For that, the Hon. Chairman has also proposed from Ksh200 down to Ksh50. I really urge that we support the Chairman on that amendment.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members. There are those amendments that were proposed by the Chairman which many of you either feel one way or the other. Let us dispose of that, then we go to the amendments by Hon. Mwenje and Hon. Kaguchia. Let me now put the question.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 25 as amended agreed to)

(Several Hon. Members rose in their places)

Hon. Members: Division! Division!

The Temporary Chairman (Hon. Farah Maalim): Order Hon. Members. We need to have 30 of you standing and you do not have that. Hon. DK, proceed and prosecute your amendments.

Hon. Members: Division!

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Members! If you want to contest the outcome you must be 30 Members upstanding. It is then we will have a division.

(Several Hon. Members remained upstanding)

Hon. Members, we have about 19 of you who are upstanding and we need 30 Members.

Next clause.

New Clause 21A

The Temporary Chairman (Hon. Farah Maalim): The Chair of the Departmental Committee on Finance and National Planning. Where is the Chairman?

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairperson. I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after clause 21-

Amendment of
section 2 of Cap.472

21A. Section 2 of the Excise Duty Act is amended in subsection (1) by inserting the following new definition in the proper alphabetical sequence-

“digital lender” means person holding a valid digital credit providers licence issued by the Central Bank of Kenya;

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(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairperson, this amendment is seeking to align with the definition of digital lenders as defined under the Central Bank of Kenya Digital Credit Providers Regulations.

Hon. Kaguchia John (Mukurweini, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Farah Maalim): Hon. Kaguchia, what point of order are you on?

Hon. Kaguchia John (Mukurweini, UDA): Hon. Temporary Chairman, I had proposed that we drop taxation on telephone and internet data services and I have realised that the Chair agreed with it. So, I had to go on record that I also proposed that.

The Temporary Chairman (Hon. Farah Maalim): Indeed. That is why your proposal is not available for deliberation. It has already been taken care of.

Hon. Kaguchia John (Mukurweini, UDA): Hon. Temporary Chairman, I also want to request that we be fair to the Members. As you can see, Members are not supporting the increase of construction costs in the country. That is why they are not supporting the Excise Duty on ceramic items and construction materials...

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Kaguchia. As my friend and a young man who was part of the democratisation process of this country while you were still a student as I was in Parliament, I gave you a leeway but you are debating. That is not a point of order.

(Loud consultations)

Order, Hon. Members!

(Question, that the new clause be read a Second Time, proposed)

Hon. Members, you can debate on this. Hon. Mwenje, I thought you wanted to debate on this.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Chairman. I had an amendment at some point, which I wanted the Chairman to note. It was on the issue of increasing Excise Duty on betting. The Chairman proposed to increase it from 12.5 per cent to 15 per cent, and I proposed to increase it to 12.8 per cent. My concern is that the effect of increasing Excise Duty from 12.5 per cent to 15 per cent is that we will collect less taxes, just as we saw with the Capital Gains Tax (CGT), which we increased from 5 per cent to 15 per cent. The Chairman is talking about increasing collections, but I am not sure he will collect more taxes. The effect of increasing Excise Duty from 10 per cent to 12.5 per cent led to fewer collections. Increasing it from 12.5 per cent to 15 per cent will reduce the collections even further.

I hope the Chairman reconsiders.

The Temporary Chairman (Hon. Farah Maalim): The Chairman will take note of that.

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

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Clause 26

The Temporary Chairman (Hon. Farah Maalim): Chairman, you have an amendment.

(Loud consultations)

Hon. Nelson Koech and your friends, allow the Chairman to move his amendment.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 26 of the Bill be amended—

(a) by deleting the expression “two point five” and substituting therefore the word “two”.

Hon. Temporary Chairman, the Bill as proposed by the National Treasury and Economic Planning proposes to increase the Railway Development Levy (RDL) from 1.5 per cent to 2.5 per cent. However, the Committee noted that that would be a 67 per cent increase in the RDL. Although there is need to balance between protecting the cost of items and raising revenue for the Government, we propose to reduce it from 2.5 per cent to 2 per cent.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 26 as amended agreed to)

New Clause 25A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 25—

Amendment of section 7A of Cap. 469C.	of of	25A. Section 7A of the Miscellaneous Fees and Levies Act is amended in subsection (4) by inserting the words “African Continental Free Trade Area and” immediately after the words “originating from”.
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(The new clause was read a First Time)

The Temporary Chairman (Hon. Farah Maalim): Hon. Kimani, move the Second Reading of New Clause 25.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the new Clause 25A be now read a Second Time.

The amendment seeks to exempt from the Export and Investment Promotion Levy (EIPL), goods originating from the African Continental Free Trade Area (AfCFTA) as well as the East African Community (EAC). This will promote free trade in the continent and will align the Act with the conventions ratified by Kenya in the promotion of the African continental free trade.

(Question, that the new clause be read a Second Time, proposed)

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*Question, that the new clause be read
a Second Time, put and agreed to)*

*(Question, that the new clause be
added to the Bill, put and agreed to)*

New Clause 26A

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

Amendment of the
Second Schedule to
Cap. 469C.

26A. The Second Schedule to the Miscellaneous Fees and Levies Act is amended—

(a) In Part A—

- (i) in paragraph (xxv), by inserting the words “National Intelligence Service, the Defence Forces Welfare Services”;
- (ii) by inserting the following new paragraph immediately after paragraph (xxx)—

“(xxx) goods of chapter 5407 and chapter 6309 imported as raw materials for manufacture of textile products in Kenya upon recommendation of the Cabinet Secretary responsible for investment, trade and industry.”

(b) In Part B—

- (i) in paragraph (ix) by inserting the words “National Intelligence Service” immediately after the words “Kenya Defence Forces, the Defence Forces Welfare Services”;
- (ii) by inserting the following new paragraph immediately after paragraph (xvi)—

“(xxvii) goods of chapter 5407 and chapter 6309 imported as raw materials for manufacture of textile products in Kenya upon recommendation of the Cabinet Secretary responsible for investment, trade and industry.”

(The new clause was read a First Time)

The Temporary Chairman (Hon. Farah Maalim): I call upon the Mover to move Second Reading of New Clause 26A.

Hon. Kuria Kimani (Molo, UDA): Hon. Chairlady, I beg to move that the New Clause 26A be now read a Second Time.

This amendment seeks to exempt, from import declaration fee, goods supplied to the Kenya Defence Forces welfare services in addition to the KDF and the National Police Service. This amendment also seeks to include several items under the export and investment promotion levy to provide funds to boost manufacturing, increase exports, create jobs, earn foreign exchange, and promote investments.

(Question, that the new clause be read a Second Time, proposed)

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The Temporary Chairman (Hon. Farah Maalim): Who wants to contribute? Hon. Kaguchia, I thought you wanted to contribute. What happened?

Hon. Kaguchia John (Mukurweini, UDA): Thank you, very much, Hon. Temporary Chairman. I propose we do not increase the Railway Development Levy from 1.5 per cent to 2 per cent. Rather, we should retain at 1.5 per cent. This will ensure that we maintain the cost of imports low.

The Temporary Chairman (Hon. Farah Maalim): Order, Hon. Kaguchia. We have passed that. We are now considering New Clause 26A, which is different.

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 26B

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

Amendment of the
Third Schedule to
Cap. 469C.

26A. The Third Schedule to the Miscellaneous Fees and Levies Act is amended by inserting the following items immediately after the item of description “Other sacks and bags, including cones” of tariff number “4819.40.00”

<i>Tariff No.</i>	<i>Tariff description</i>	<i>Export and investment promotion levy rate</i>
4804.29.00	Sack kraft bleached	10% of customs value
4804.39.00	Sack kraft bleached	10% of customs value

(The new clause was read a First Time)

The Temporary Chairman (Hon. Farah Maalim): I call upon the Mover to move Second Reading of the New Clause 26B.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the new clause be read a Second Time. This is to promote local manufacturing, increase exports, create jobs and save us on foreign exchange as we also promote investments.

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

(Title agreed to)

(Clause 1 agreed to)

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The Temporary Chairman (Hon. Farah Maalim): Hon. Members, we are done with the Bill. I now call upon the Mover, Hon. Kuria Kimani, to move reporting.

(Loud consultations)

Hon. Members, let us have a bit of order here. We cannot treat our chamber like that. Hon. Osoro, you are the one who will report. Proceed.

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Chairman, I beg to move that the Committee do report to the House its consideration of the Tax Laws (Amendment) Bill (National Assembly Bill No.47 of 2024) its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

[The Temporary Speaker (Hon. Peter Kaluma) in the Chair]

MOTION

CONSIDERATION OF REPORT ON THE BUSINESS LAWS (AMENDMENT) BILL

The Temporary Speaker (Hon. Peter Kaluma): We will start with the Business Laws (Amendment) Bill (National Assembly Bill No.49 of 2024). Chairperson.

Hon. Farah Maalim (Dadaab, WDM): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Business Laws (Amendment) Bill (National Assembly Bill No.49 of 2024) and its approval thereof with amendments.

The Temporary Speaker (Hon. Peter Kaluma): Mover, move agreement with the report.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said report. I also request Hon. Junet Mohamed to second the Motion for agreement with the report of the Committee of the whole House.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Junet Mohamed.

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Is it the mood of the House that I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

(Applause)

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BILL*Third Reading*

THE BUSINESS LAWS (AMENDMENT) BILL
(National Assembly Bill No.49 of 2024)

The Temporary Speaker (Hon. Peter Kaluma): Mover to move Third Reading.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the Business Laws (Amendment) Bill (National Assembly Bill No.49 of 2024) be now read a Third Time.

I request Hon. Wamumbi Eric to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Eric Wamumbi.

Hon. Eric Wamumbi (Mathira, UDA): Hon. Temporary Speaker, I second.

(Question proposed)

Hon. Members: Put the Question.

The Temporary Speaker (Hon. Peter Kaluma): Is it the mood of the House that I put the Question?

Hon. Members: Yes.

The Temporary Speaker (Hon. Peter Kaluma): I have confirmed that we have the numbers in the House. It is properly constituted for purposes of making a decision.

(Question put and agreed to)

*(The Bill was accordingly read
a Third Time and passed)*

MOTION

CONSIDERATION OF REPORT ON THE TAX LAWS (AMENDMENT) BILL

The Temporary Speaker (Hon. Peter Kaluma): Chairman.

Hon. Farah Maalim (Dadaab, WDM): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Tax Laws (Amendment) Bill (National Assembly Bill No.47 of 2024) and approved the same with amendments.

The Temporary Speaker (Hon. Peter Kaluma): Mover.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Report of the Committee of the whole House in consideration of the Tax Laws (Amendment) Bill (National Assembly Bill No.47 of 2024).

I request Hon. Junet Mohamed to second the Motion.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Junet Mohamed.

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Is it the mood of the House that I put the question?

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Hon. Members: Yes

(Question put and agreed to)

BILL

Third Reading

THE TAX LAWS (AMENDMENT)
BILL (NATIONAL ASSEMBLY NO.47 OF 2024)

The Temporary Speaker (Hon. Peter Kaluma): Mover to move Third Reading.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the Tax Laws (Amendment) Bill (National Assembly Bill No.47 of 2024) be now read a Third Time.

I request Hon. (Prof.) Phylis Bartoo to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Prof.) Phylis Bartoo to second.

Hon. Phylis Bartoo (Moiben, UDA): Hon. Temporary Speaker, I second.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Phylis Bartoo.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Is it the mood of the House that I put the Question?

Hon. Members: Yes.

Hon. Junet Mohamed (Suna East, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Is that the Leader of the Minority Party? What is out of order?

Hon. Junet Mohamed (Suna East, ODM): There is nothing that is out of order, Hon. Temporary Speaker. This is the Third Reading and we are allowed to say something.

The Temporary Speaker (Hon. Peter Kaluma): Yes.

Hon. Junet Mohamed (Suna East, ODM): I want to use that space at the Third Reading to say something.

The Temporary Speaker (Hon. Peter Kaluma): Proceed, Leader of the Minority Party.

Hon. Junet Mohamed (Suna East, ODM): First, I want to congratulate the Chairman of the Departmental Committee on Finance and National Planning and his Members for a job well done. This is one of the rare tax amendment Bills that had the least disruptions.

Proper public participation was done all over the country. The views of the public have been incorporated into this Bill. This is the way we need to handle our tax amendments going forward. These are amendments that are going to enhance and uplift our economy. I have not seen any single clause that is detrimental to the people of this republic. I sat here this evening to safeguard the interest of the public. That is what I have been here to do.

I am fully satisfied as the Leader of the Minority Party that these tax laws... I know why it has gone like this. It is because of the expert, Hon. Mbadi, that we have taken to the finance docket. He is a very serious and seasoned accountant who knows his work. I am very happy because the President has given him space to do the work he is supposed to. Going forward, public trust and confidence in Parliament must go up. The work, energy and thought process that has gone into the Tax Procedures (Amendment) Bill, only Parliament can do.

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I want to thank my counterpart, the Leader of the Majority Party, for giving us space as the minority to debate so that our views can be heard. He is a distinguished accountant who understands tax issues. I am very proud because the Tax Procedures (Amendment) Bill is what this country needs at this point in time. Our economy is on the upward trajectory. Inflation is at 2.7 per cent. Forex exchange has stabilised and the dollar to the shilling has settled at Ksh129 from Ksh163. The debts are being serviced. So, there is no better time than this, in this country. The cost of living has come down. This is the kind of life we want our citizens to enjoy. We want it to become better than it is today. That is why as Members of Parliament, we want to make sure that the right laws are passed. As a House, we are the guardians and the vanguard of the people, not as the minority or majority.

I conclude by saying that I am proud of this Bill. I expect the President to assent to it soonest and expeditiously so that Kenyans can enjoy its benefits.

With those few remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Leader of the Minority Party, I do not know who can say it better than you. Let us have the Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I take this opportunity to first thank all the Members of the Departmental Committee on Finance and National Planning, for the dedication they have put into the processing of this Bill. As I mentioned yesterday, the Members of this Committee sat up from the previous night up to 5.00 a.m., in the morning. Yesterday you could see they were all looking very sleepy. They have put in a lot of work.

I agree with the Leader of the Minority Party and give credit to the Cabinet Secretary, John Mbadi, a former parliamentarian. Maybe, this should tell His Excellency the President that if he is looking for cabinet secretaries, he should look no further than from the political class.

(Loud consultations)

This is because they feel the pulse of the nation and know what is good for the people. They know when and how to act. I have said in other public forums that I am very happy and comfortable as a Leader of the Majority Party. At the moment, I am not interested in any cabinet position. So, I am not saying this to campaign for any position.

Hon. John Mbadi has midwived the processing of these Bills, right from inception by sensitising members of the public. As you can remember, the Ministry of National Treasury and Economic Planning, Ministry of Environment and Forestry and the Ministry of Trade, Investment and Industry did public sensitisation. I must commend the other former politicians like Hon. Aden Duale, the Cabinet Secretary for Environment and Forestry, for doing a similar exercise. Also, the former Governor for Kwale County, who is the Cabinet Secretary for Trade and Industry, Hon. Salim Mvurya, who did a similar exercise that culminated into the Business Laws (Amendment) Bill that we have passed today.

I agree with Hon. Junet that the Bills we have passed today, the Business Laws (Amendment) Bill, the Tax Procedures (Amendment) Bill and the Tax Laws (Amendment) Bill, are very progressive. They are a win-win for everybody. For the taxpayer because they are creating equity and fairness in the taxation process in our country. Also, for the Government in terms of ability to generate additional revenue and for manufacturers and business owners. Even on the contentious clauses around the tiles, we finally agreed and anchored the proposals by the Chairman. This is because they are protecting the people who produce raw materials. The people of Mukurweini today, are winners; and I am happy that this House has stood with them, and that we have stood to anchor the policy of import substitution. That progressively, we are legislating to protect our local industries and discourage cheap imports from the far East

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at the expense of young men and women from Kikuyu Constituency who would otherwise get jobs in Athi River, Kitui, Kitengela and even Muhoroni factories, since I heard the Member for Kesses Constituency ask how many companies manufacture tiles.

We have heard of factories in Kitui, Muhoroni and Murang'a who are producers of raw materials. The way to encourage investments into our country is to have laws that will encourage them to invest here and assure them that there are raw materials, and ready market for their produce. I am so proud of this House tonight. We have all in one accord passed laws that feel the pulse of the nation, now and in the future, and even for our future generations. With that, I thank the close to 65 Members who are in this House this evening. I wish the cameras could zoom around for the people of Kenya to know who stands with them when they are called upon to. I wish I could name all the Members one by one, but I will take a lot of time. Therefore, from the bottom of my heart, you are the heroes of our country today and you are great men and women of the 13th Parliament. History will judge you right, including the Chairman of the Committee of the whole House, Hon. Farah Maalim, who is an elder of the House. I know the Committee of the whole House has taken unduly long, but that is what happens when you have an elder leading you. He has moderated us very well even at the times when things were heated.

I thank you all.

Hon. Temporary Speaker (Hon. Peter Kaluma): The Chairperson, Departmental Committee on Finance and National Planning, Hon. Kimani Kuria.

Hon. Kuria Kimani (Molo, UDA): Thank you very much, Hon. Temporary Speaker.

Today, I am a proud Kenyan, Member of Parliament and a proud Member of this 13th Parliament because we have passed very progressive laws that are going to increase the disposable income of all Kenyans. The payslip of Kenyans this December is going to look better because of the allowances that we have given for the statutory deductions.

(Applause)

Our pensioners will get better rebate for pension payments, and therefore, reduce the burden of taking care of the elderly people. People can now contribute to their post-medical insurance, and therefore, it means you can take care of your medical insurance when you are working, and that will be an allowable expense. Data and airtime will continue to be affordable. For our businesses, the cost of tax administration, the proviso that had been made requiring payment of Withholding Tax within five working days, would mean some institutions had to have accountants there all the time, calculating when the five working days have ended, but this honourable House has passed to remove that tax. I know we had a very heated argument which is very heavy about our local manufacturing, but let me inform this House that in the Finance Act of 2023, this honourable House introduced Excise Duty on imported furniture. Of course, there was a lot of resistance because they are saying it will increase the cost of furniture. But what you see is that even companies that were selling imported furniture have resorted to assembling that furniture here, and, therefore, creating jobs for our people, just like the Murage Modern Furniture. If you go along Ngong Road, Thika Road or Mombasa Road, you will see a lot of furniture businesses.

(Hon. John Kiarie spoke off record)

In fact, Hon. KJ is even telling me that Morara Kebaso also has that progressive business, making him a beneficiary of that incentive made in this particular House. I would ask the Members to look forward for the long-term benefits. Of course, this report has demonstrated that public participation was not an exercise in futility. The views we collected from Kenyans,

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we have tried to the best extent possible to accommodate them in our report. Lastly, because we have had a lot of conversation on the Finance Bill, some of the proposals we had already agreed on the Finance Bill, in the report the Departmental Committee of Finance and National Planning did, are the ones that have been reintroduced and passed by this House. That means we have been vindicated that whatever bad the National Treasury had brought last time, we had to remove it. We had passed a very successful and progressive Bill and this time around, again, we have passed a very successful and progressive Bill.

Lastly, is to thank my Committee Members. We sat long hours. One day we sat from evening all the way to morning. Our staff worked long hours and we really want to thank them and all the members of the public that took their time to either write to us or to appear in person to give us their views. Your views are not in vain. I want to thank everyone who was involved in this process and all our colleagues for agreeing with us and moving on with those six Bills.

The Departmental Committee on Finance and National Planning, it is important to mention, in the last three weeks, has processed six very progressive Bills all the way to Third Reading. I want to say that I am very proud to serve as the Chairperson of a very able and informed Committee and a team of secretariat that enabled this to happen.

(Applause)

With that, I support.

Hon. Members: Put the Question.

The Temporary Speaker (Hon. Peter Kaluma): Is it the mood of the House that I put the Question?

(Loud consultations)

Yes, I am proceeding to put the Question. As I do so, the Movers of the Motion under Order Nos.12, 13, 14, 15, 16, 17, and 18 should prepare because with the industry we are seeing in the House, we can transact them before we adjourn.

Hon. Keynan, you insist on...

Hon. Adan Keynan (Eldas, JP): Hon. Temporary Speaker, I just wanted to say one thing.

The Temporary Speaker (Hon. Peter Kaluma): Just give him the microphone because of rank.

Hon. Adan Keynan (Eldas, JP): Thank you, Hon. Temporary Speaker. I am Member of the Departmental Committee on Finance and Planning Committee and I can see the whole House is in a celebratory mood. But I think we must appreciate why it is this way. We have replaced confrontation with consultations, we have replaced transactional interests with a national interest and we have all constituted ourselves as a true representative of the Republic of Kenya. This is supposed to be ideally the mood of every democratic House.

So, I want to say congratulations to all of us, but remember outside there, the expectation, the community outside there, the public outside there, are waiting for these great minds to give them laws that will add value to their well-being. That is what we have done today and in future, the mood should remain the same.

We need to thank the leadership of the both sides of the House. The true owners of both Houses. The leadership of His Excellency the President, Dr William Ruto, and His Excellency *Baba*, for bringing the entire country together. They have helped us to make decisions. What we have been lacking are courageous individuals to sit down, put aside the fear of the unknown and make decisions that will add value. These decisions that we are making today will be remembered one day that we are the ones who have moved Kenya from the yoke of the fear of the unknown to a very progressive thinking. So, congratulations to all of you.

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The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, I now put the Question. Before I do so, I have confirmed that we have Quorum present in the House for purposes of making a decision.

(Question put and agreed to)

(Applause)

*(The Bill was accordingly
read a Third Time and passed)*

The Temporary Speaker (Hon. Peter Kaluma): Next Order.

MOTIONS

ADOPTION OF REPORT ON INQUIRY INTO ALLEGED UNFAIR TRADE PRACTICES BY FOREIGN INVESTORS IN KENYA

THAT, this House adopts the Report of the Departmental Committee on Trade, Industry and Cooperatives on the Inquiry into Alleged Unfair Trade Practices by Foreign Investors in Kenya, laid on the Table of the House on Thursday, 7th March 2024.

(Moved by Hon. James Gakuya on 2.12.2024)

(Resumption of debate interrupted on 2.12.2024)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Charles Ngusya, do you want to speak on this? Hon. Rahim Dawood? Is the Chairman of the Departmental Committee on Trade, Industry and Cooperatives in the House? There being no more interest, proceed and reply. Please, give the microphone to the Chairman.

Hon. James Gakuya (Embakasi North, UDA): Thank you for the opportunity to reply on this Report regarding the unfair trade practices between foreigners and our local traders.

I thank Members of the Departmental Committee on Trade, Industry and Cooperatives who took time to listen to the views of traders, including the Ministry and stakeholders of the sector. I also thank Members of this House who have contributed to this Report.

As I reply, I take concern that there has been unfair trade between local traders and foreign traders. This is especially those who trade products from China. Most Chinese traders have gone down from being dealers of businesses. They have trickled down to being retailers and even hawkers. That makes business so tedious to local traders. As much as we have liberalised our trade, it is important to make some consideration of protecting the interests of our indigenous traders considering that every other country protects its local domestic traders.

We listened to presentations of local traders and other stakeholders. It seems our laws have a gap in protecting our local traders. Chinese traders get cheaply priced products directly from manufacturers in their country while there are caveats on our local traders who bring commodities from China. As we listened to traders, we realised there is a law in China that prohibits our traders from engaging manufacturers directly. Those who belong to China can get materials or products directly from manufacturers.

Therefore, it becomes difficult for our traders to bring their commodities here. It becomes stiff competition between the Chinese and our local traders. This creates a big gap in

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competition. This applies to the complaints our local traders raised considering one player, China Square, who carries out retail marketing. After listening to and hearing various stakeholders, we realised that we have a serious gap in the law that we need to seal. We have laws that protect the county governments and the national Government. There is need to look at those policies that govern our trading and make it possible for coordination between county governments and the national Government, to create a way of protecting local traders. We should also make sure that we do not lock out foreigners who trade in this country.

In our observations, we propose that there is need for the Ministry of Investments, Trade and Industry and the Investment Promotion Department within it, to issue certificates to foreign traders. According to the current law, the certificate is not mandatory. The law states that it “may”. That means that it is not mandatory for any single foreign player to be issued with that certificate. Therefore, there is need to re-look at that and make it mandatory for the Investment Promotion Department to issue certificates which have conditionalities on the nature of compliance one has to follow as a player or a trader, especially foreigners.

This should not only apply to trade from China, but also from other countries in order for our domestic players to be comfortable. After evaluating what our neighbour, Ethiopia, does, we realised that they ringfence certain areas like retailing and hawking to the locals. In our country, because it is a liberalised country, we allow even foreigners to do business at every level.

One can be a producer and become a dealer. He can also become a stockist, a retailer and a hawker at the bottom, making it very difficult for our traders to compete with them, especially in commodities that are sourced from outside the country.

There is a great need to look at our laws and make sure that we soften them to protect our domestic players in order to make their businesses prosper. We visited Gikomba, Kamukunji and other areas where these businesses are and the competition is very high. Also on standards, the KEBS and counterfeit departments are mandated to take care of that. You can find people selling the same commodity, but the quality is different. Therefore, this means that someone can bring in a commodity of a lesser quality and compete with somebody selling a standard product. In this case, we also advocate that it is important for the Kenya Bureau of Standards to have the correct equipment to check whether commodities are of the right standards or whether they are counterfeit. When we invited them, we realised that they gauge whether a product is counterfeit or not by using the conformity assessment from the country of origin. That does not give the correct position because we need equipment which can clearly test the correct standards.

The Committee proposed that such measures be taken and that the current laws should be looked into. If need be, we also need to craft a law which can protect our local traders. If we allow foreigners to hawk their products in our country and yet, they source their products directly from manufacturers in their countries, that will expose our local traders, forcing them out of business. We need to listen to our clients and take the necessary action. The best thing we can do is to re-evaluate our current laws and see how to improve them, so that they can protect our local traders.

At the same time, we should not completely leave out foreign interests because we need everybody. However, as much as we need to incorporate everybody in our market and open doors to foreigners, we should not forget that we must, first, protect our people and their interests. If we fail to, first, look after their interests, we cannot do so for others. We have to protect our own first.

As I conclude, this House has the power to craft laws. We should see how to craft a law that will strike a balance between the needs of our people and foreign interests.

The Temporary Speaker (Hon. Peter Kaluma): You have 30 seconds to conclude.

Hon. James Gakuya (Embakasi North, UDA): Thank you, Hon. Temporary Speaker. I will leave the mandate to the two tiers or categories of business.

The Temporary Speaker (Hon. Peter Kaluma): You have 30 seconds to conclude.

Hon. James Gakuya (Embakasi North, UDA): I am concluding, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Just say, "I beg to reply".

Hon. James Gakuya (Embakasi North, UDA): Hon. Temporary Speaker, I beg to reply.

The Temporary Speaker (Hon. Peter Kaluma): For the convenience of the House, I will defer the putting of the Question to a future date.

(Putting of the Question deferred)

Next Order.

ADOPTION OF REPORT ON FINANCIAL STATEMENTS OF STATE CORPORATIONS
(NYANZA REGION) FOR 2018/2019, 2019/2020 AND 2020/2021

THAT, this House adopts the Report of the Public Investments Committee on Governance and Education on its Examination of the Reports of the Auditor-General on the Financial Statements of State Corporations (Nyanza Region) for the financial years 2018/2019, 2019/2020 and 2020/2021, laid on the Table of the House on Thursday, 25th July 2024 subject to—

- (a) deletion of paragraph 212 appearing on page 41 of the report and substituting therefor the following new paragraph –
“The Committee recommends that the irregular cash payments made for the casual works done amounting to Ksh2,308,996 be surcharged to the Governing Council of Kisumu National Polytechnic. The amount is to be paid within six months after the adoption of this report by the House;
- (b) deletion of paragraph 216 appearing on page 41 of the report and substituting therefor the following new paragraph –
“The Committee recommends that the long outstanding imprest of Ksh37,800 be written off from the institution’s books of accounts since no money was lost; it was as a result of demise of the employee”; and,
- (c) effecting the consequential amendments in the report."

(Moved by Hon. Wanami Wamboka on 6.11.2024 – Afternoon Sitting)

(Resumption of debate interrupted on 6.11.2024 – Afternoon Sitting)

Hon. Rahim Dawood wants to contribute to this. He has stepped out. There being no one else desiring to contribute...Hon. Wanami Wamboka, you cannot move from your seat and replace the Temporary Speaker in managing the House. I can see whether there is interest in the Motion. There are no Members interested in speaking to the Motion. Therefore, I will call upon the Mover to reply. Are you the Mover?

Hon. Wanami Wamboka (Bumula, DAP-K): Yes.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Wanami Wamboka, proceed to reply.

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Hon. Wanami Wamboka (Bumula, DAP-K): Thank you, Hon. Temporary Speaker. I want to thank the House for the opportunity to serve and deal with that big problem in our universities. It is the commitment of the Committee that I chair that we are going to try to ensure that we put these institutions back to where they are supposed to be.

It takes the collective responsibility of this House to do that which the public expects us to do. It takes all of us, united as a House, to ensure that our universities are on their feet. As we speak, because of mismanagement Moi University has left the Intensive Care Unit (ICU) and is moving to the grave. The mighty University of Nairobi...

The Temporary Speaker (Hon. Peter Kaluma): Did you say Moi University has moved from ICU and is now heading to the grave?

Hon. Wanami Wamboka (Bumula, DAP-K): It is now headed to the grave. It cannot pay its employees. Students cannot be sustained on campus and they cannot graduate. Pensioners cannot access their pension. That is why we are saying that it takes collective responsibility.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Wamboka, what is happening to the newly admitted students at Moi University? That statement is very serious.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Temporary Speaker, you should recall that the Committee I chair brought this issue to this House when Moi University closed indefinitely. We summoned them to the Committee and listened to their problems. The problems are grave. The problems bedevilling Moi University are not small. The university remained closed for months until less than a week ago when they had an agreement with the union, the Ministry and students to re-open. But that is just cosmetic. The problems in that university are too many. The Vice-Chancellor is a guest at the Ethics and Anti-Corruption Commission (EACC) all the time. We have a problem. If this House does not unite, we are going to lose most universities.

We have another time bomb. The mighty University of Nairobi is headed in the same direction, if nothing happens, and it is because of leadership. Another case in mind is Kenyatta University. Managers of these institutions decide to send the substantive Vice-Chancellor on leave, by-pass all senior Deputy Vice-Chancellors and appoint a junior officer, who has been a DVC for hardly two years, to head the institution. What are you doing to the senior DVCs who have been in the organisation for more than 10 years? What are you doing to their experience? You end up having a demoralised lot that cannot put the universities where they are supposed to be.

I sought the indulgence of the Speaker and tomorrow we will discuss the funding model. Taking students to private universities has killed public universities. My Committee came up with a Bill to regulate funding of public students in private universities. We went through all the processes.

Hon. Temporary Speaker, cartels out there are many in this sector. They approached our Committee, but it refused to engage them. As we speak, someone decided to delete all the clauses in the Bill that we had brought to this House to regulate how students are supposed to be taken in by Kenya Universities and Colleges Central Placement Service (KUCCPS) in these universities. What are we doing? We are killing our universities. I will talk about it tomorrow. I will seek the authority of this House to overturn the Report of the Departmental Committee on Education. We cannot allow cartels and thieves to kill our universities and follow us through in this House to curtail us from making the laws that are supposed to serve the public interest.

We also ask the Ministry of Education to be serious in giving funds to these institutions. We have the Differentiated Unit Cost (DUC) funding model and the new funding model, but the universities do not access these funds. What do you want these vice-chancellors to do with our children? They cannot pay salaries and they cannot take care of these students. We ask the Government to be serious and prioritise the education of our children. Once you compromise

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the education of any nation, there is no possibility that it can prosper. We urge the Government and the State Department for Higher Education and Research to be serious, civilised and truthful to what they promised Kenyans. We want to see our universities back.

As a Committee, we have become very fierce. Most of the heads of these institutions do not take the work of the National Assembly seriously. You summon them, but they know the audit cycle and how it works. They come up with excuses like they have gone to Mombasa. We have a ruling from the Milimani Law Courts that speaks to the audit cycle. Upon tabling of these audit reports, the audit committees have only three months to go through them. If we are not going to instil discipline, then we cannot succeed. We will have failed, as a Committee and House. From last week, our Committee decided not to entertain any excuses from any officer whom we have called to appear for the sake of the audit reports.

I call upon this House to stand in unison and look at how universities are coming down because of initiations of too many projects. You will find a university has more than five projects which it cannot fund. All of them are now going in abeyance. They cannot continue, and contractors are on site and they continue charging them fees because they cannot pay them. These are some of the things that we, as a Committee, are trying to come up with to ensure that our universities are running very well.

As we indicated earlier, we have decided to be very punitive to those officers who want to use public money without due procedure. That is why we have surcharged people. For example, at Kisumu National Polytechnic, we surcharged the Council because a national institution of such magnitude wants to operate like a kiosk. They take money from the coffers of the institution without any procedure. Such people must be surcharged. They must not hold office. There are officers who are stealing public funds. We have recommended to this House that they should not hold public office forever because it is for the responsible people who are ready to serve this nation diligently. I thank my Committee Members who were diligent on this, the leadership and all the Members of this House for the support I have received.

I beg to reply. Thank you very much.

The Temporary Speaker (Hon. Peter Kaluma): Chairperson, Public Investments Committee on Governance and Education, Hon. Wamboka, it is always very refreshing to listen to you. You are commended for the passion you demonstrate in executing the mandate of your Committee on behalf of your members.

Hon. Wanami Wamboka (Bumula, DAP-K): Thank you, Hon. Temporary Speaker. Indeed, receiving such compliments from a ranking Member like yourself is not a mean feat. I want the House to also note that as at now we are at seven reports and in terms of performance, I think we have done very well. As a first-term Member of Parliament I think I have tried as a Chairman of that Committee. Thank you very much, Hon. Temporary Speaker and Members of this House, for your support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you for bringing your courage and competencies to bear on the work of the House. For the convenience of the House, the question to the Motion appearing under Order No.13 will be put in future.

(Putting of the question deferred)

Next order.

BILL

Second Reading

THE EQUALISATION FUND (ADMINISTRATION) BILL

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(Senate Bill No.14 of 2023)

The Temporary Speaker (Hon. Peter Kaluma): Do we have the Chairperson Departmental Committee on Finance and National Planning in the House? It is dropped from the Order Paper. We will have this considered in future.

(Bill deferred)

Next order.

MOTION

ADOPTION OF THIRD REPORT ON FINANCIAL STATEMENTS OF SPECIFIED STATE CORPORATIONS

THAT, this House adopts the Third Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the Report of the Auditor-General on the Financial Statements of the following State Corporations, laid on the Table of the House on Tuesday, 30th July 2024—

- (i) Kenyatta National Hospital, FY 2018/2019 and 2019/2020;
- (ii) Kenya Medical Supplies Authority, FY 2017/2018 and 2018/2019;
- (iii) Kenya Veterinary Board, FY 2018/2019, 2019/2022 and 2020/2021;
- (iv) National Authority for the Campaign against Alcohol and Drug Abuse, FY 2017/2018, 2018/2019, 2019/2020 and 2020/2021; and,
- (v) Kenya Broadcasting Corporation, FY 2000/2001, 2001/2002, 2002/2003, 2003/2004, 2004/2005, 2005/2006, 2006/2007, 2007/2008, 2008/2009, 2009/2010, 2010/2011, 2011/2012 and 2012/2013.

The Temporary Speaker (Hon. Peter Kaluma): Mover? Again, the Motion appearing under Order No.15 stands dropped from the Order Paper for consideration in future as and when the House Business Committee will schedule it.

(Motion deferred)

Next Order.

BILL

Second Reading

THE POLITICAL PARTIES (AMENDMENT) BILL (National Assembly Bill No.35 of 2022)

The Temporary Speaker (Hon. Peter Kaluma): Mover? Again, for the convenience of the House, the Bill appearing under Order No.16 is dropped from the Order Paper and will be considered in future as and when it will be scheduled by the House Business Committee.

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(Bill deferred)

Next Order.

THE UNIVERSITIES (AMENDMENT) BILL
(National Assembly Bill No.38 of 2023)

The Temporary Speaker (Hon. Peter Kaluma): Do we have the Mover? Again, for the convenience of the House, the matter appearing under Order No.17 stands dropped for House Consideration in future as and when the House Business Committee will schedule it for consideration.

(Bill deferred)

Next Order.

MOTIONS

REPORT OF KENYA DELEGATION TO EXTRAORDINARY SESSION
OF 6TH PARLIAMENT OF PAN-AFRICAN PARLIAMENT

THAT, this House notes the Report of the Kenya Delegation to the Extraordinary Session of the Sixth Parliament of the Pan-African Parliament, held in Midrand, South Africa, from 20th to 27th March 2024, laid on the Table of the House on Thursday, 2nd May 2024.

The Temporary Speaker (Hon. Peter Kaluma): Mover? Again, for the convenience of the House, the matter appearing under Order No.18 is dropped to be considered by the House in future as and when the House Business Committee will schedule it to be transacted.

(Motion deferred)

Next Order.

ADOPTION OF REPORT ON PROVISION OF SERVICES TO PERSONS WITH
DISABILITIES BY NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

THAT, this House adopts the Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the Performance Audit Report by the Auditor-General on the Provision of Services to Persons with Disabilities by the National Council for Persons with Disabilities, laid on the Table of the House on Tuesday, 30th July 2024.

The Temporary Speaker (Hon. Peter Kaluma): Mover? For the convenience of the House, the matter appearing under Order No.19 stands dropped from the Order Paper of today and will be considered by the House in future as and when the House Business Committee will schedule it for deliberation.

(Motion deferred)

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Hon. Members, thank you very much for the industry you have so far demonstrated, particularly this week. I know continuing in that spirit is why the people of Kenya brought us here. Have a good evening.

Hon. Members, please, be up standing.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the time being 8.50 p.m., this House stands adjourned until tomorrow, Thursday, 5th December 2024 at 9.30 a.m.

The House rose at 8.50 p.m.

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