



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT – (FOURTH SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**WEDNESDAY, JUNE 04, 2025 AT 9.30 A.M.**

**ORDER OF BUSINESS**

**PRAYERS**

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

**8\*. THE PENAL CODE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 53 OF 2024)**

(The Hon. Anthony Oluoch, M.P.)

First Reading

**9\*. THE HEALTH (AMENDMENT) (No.2) BILL (NATIONAL ASSEMBLY BILL NO. 56 OF 2024)**

(The Hon. Njeri Maina, M.P.)

First Reading

**10\*. COMMITTEE OF THE WHOLE HOUSE**

- (i) The Assisted Reproductive Technology Bill (National Assembly Bill No. 61 of 2022)

(The Hon. Millie Odhiambo-Mabona, M.P.)

*(To resume from Clause 5)*

- (ii) The Environmental Management and Coordination (Amendment) Bill (National Assembly Bill No. 66 of 2023)

(The Hon. Irene Mayaka, M.P.)

11\*. MOTION: 001/2025 – IMPLEMENTATION OF THE UNIVERSAL HEALTH COVERAGE AND OF A POLICY ON MANDATORY USE OF PUBLIC HEALTH CARE FACILITIES BY PUBLIC OFFICERS  
(The Hon. Sabina Chege, M.P.)

**THAT**, aware that Article 43(1)(a) of the Constitution provides every person has the right to the highest attainable standard of health, which includes the right to health care services; further aware that the Government committed to accelerating attainment of Universal Health Coverage (UHC) to ensure all Kenyans have access and receive essential quality health services; cognizant of the fact that in 2020, the Ministry of Health adopted the Kenya Universal Healthcare Coverage Policy 2020-2030 with the theme: *Accelerating Attainment of Universal Health Coverage* which is currently being implemented through the introduction of Social Health Insurance Fund; noting that there is need to increase the quality of care and services provided in the public health sector; concerned that the public health care services lack adequate funds to guarantee quality health care services; further noting that civil servants, public officers and State officers are accorded a comprehensive medical cover by the respective government agencies; appreciating that the use of the comprehensive medical cover by public officers and State officers in public hospitals would guarantee sufficient funding for public hospitals; this House therefore resolves that, the Government through the Ministry of Health implements the Kenya Universal Healthcare Coverage Policy 2020-2030 and introduce a policy on mandatory use of public health care facilities by all civil servants, public officers and State officers in the country.

12\*. THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 25 OF 2023)

(The Hon. Timothy Toroitich, M.P. – *Co-Sponsor*)

Second Reading

13\*. THE AGRICULTURE AND LIVESTOCK EXTENSION SERVICES BILL (SENATE BILL NO. 12 OF 2022)

(The Hon. (Dr.) John Mutunga, M.P. – *Co-Sponsor*)

Second Reading

14\*. MOTION: 039/2023 – FORMULATION OF A REGULATORY FRAMEWORK ON ARTIFICIAL INTELLIGENCE IN THE COUNTRY

(The Hon. Marianne Kitany, M.P.)

**THAT**, aware that the world is rapidly embracing Artificial Intelligence (AI), which is the use of a digital computer or computer-controlled robots to perform tasks commonly associated with intelligent beings; acknowledging that, the 2022 Government Artificial Intelligence Readiness Index report ranked Kenya fifth in

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Africa and 90<sup>th</sup> globally in readiness to adopt Artificial Intelligence (AI); further acknowledging that the Oxford Insights Survey 2022 pegged Kenya's readiness to adopt AI at 40.3%; appreciating that AI has brought forth positive benefits that have increased efficiency in different sectors such as healthcare, manufacturing and robotics; concerned that, the exponential rate at which Artificial Intelligence is being embraced in the society without proper regulatory mechanisms has caused various negative consequences such as rising cases of disinformation and fake news; noting that there is need to protect Kenyans from the potential AI-instigated harms such as privacy breaches, AI-powered fake technology algorithms, algorithmic discrimination, autonomous weapons, job displacement and economic inequality, social manipulation and misinformation, financial market manipulation, and privacy invasion; now therefore, this House **urges** the Government, through the Ministry of Information, Communication and the Digital Economy to:

- (a) formulate a regulatory framework and ethical guidelines for implementation of Artificial Intelligence (AI) in the country to control its potential misuse; and,
- (b) develop and execute a public awareness programme on Artificial Intelligence to raise understanding of AI, foster transparency and promote responsible use of AI for the benefit of all.

**15\*. MOTION: 044/2023 – FORMULATION OF A LAND USE POLICY ON ZONING OF LAND FOR AGRICULTURE AND BUILT DEVELOPMENT**

(The Hon. Timothy Wanyonyi, M.P.)

**THAT** aware that land is a critical but limited factor of production that supports human habitation and food production; noting that, agriculture is Kenya's main economic mainstay; appreciating that, that the Central Bank of Kenya (CBK) *Monetary Policy Committee Agriculture Sector Survey 2022* estimated the contribution of the agriculture sector to the country's Gross Domestic Product (GDP) to be 22% directly and 27% indirectly, through its linkages with other sectors; further appreciating that, the Survey showed that the sector employs over 40% of the Kenya's total population; concerned that, in the *Land Reform, Vol. 3* publication, the Kenya Land Alliance Land estimated that only 17% of the country's land mass is classified as suitable for rain-fed agriculture land while the remainder is either semi-arid or arid; further concerned that, the country's agricultural productivity has been decreasing over the years; cognizant of the fact that, the decline in agricultural productivity is partly attributable to the shrinking agricultural land due to unplanned settlements that encroach on agricultural lands; further concerned that, agricultural lands in rural areas are continually being subdivided into small portions for built development, thereby diminishing the size of land available for agriculture; noting that, there is need to put in place measures for effective land use in the country in order to guarantee optimal use of agriculture; now therefore, this House **resolves** that, the Government, through the Ministry of Lands, Public Works, Housing and Urban Development puts in place a policy framework for effective land use in rural areas by consolidating and designating zones for built development for commercial

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and residential developments with shared public utilities and separate zones for agricultural use in order to arrest further diminishing of agricultural land and steady the country's agricultural productivity.

16\*. MOTION: 001/2024 – FORMULATION OF A REWARD SCHEME FOR ACCOMPLISHMENTS BY SPORTS PERSONS IN INTERNATIONAL COMPETITIONS

(The Hon. Charles Ngusya, M.P.)

**THAT**, aware that, sports play an integral role in promoting cultural heritage, national identity, national development, the well-being of the people and sustenance of livelihoods, particularly of the youth; appreciating that, *Sessional Paper No. 3 of 2005* provides a framework for sports development and operationalization in the country; further appreciating that the *Sector Plan for Sports, Culture and Arts – 2018* by the Ministry of Sports, Culture and Arts mainstreamed sports development in the Third Medium Term Plan (MTP III) for 2018-2022, under Kenya's Vision 2030; recognizing that, the Vision 2030 aims at capitalizing on the country's international reputation as a world-class sports powerhouse whose sportsmen and women have won international accolades and recognition, especially for their prowess in athletics; concerned that, despite bringing honour and national pride to the country, most sports men and women face a myriad of challenges such as lack of psychosocial support and social protection, hence pushing many to alarming levels of mental health challenges during their careers and even after retirement; noting that *Sessional Paper No. 3 of 2005* contemplated motivation of sportspersons by the State through cash and material prizes, conferring State honours, appointments as goodwill ambassadors and establishing contributory insurance and savings schemes among other forms of motivation; cognizant of the fact that, the prospect of receiving State recognition, financial grants, and other perks inspires sportsmen to push their limits in attaining their full potential as well as fostering a collective sense of pride in sporting achievements; now therefore, this House **urges** that the Government, through the Ministry of Youth Affairs, *Sports* and Arts, develops a policy and standardized sports reward scheme for recognizing the achievements made by sports persons in internationally recognized competitions, through—

- (i) financial rewards of Kshs. 6 million for setting new world records; Kshs. 4 million for gold medalists; Kshs. 3 million for silver medalists and Kshs. 2 million for bronze medalists;
- (ii) non-financial motivation, including facilitation with issuance of diplomatic passports for established sportsmen and women, appointment as goodwill ambassadors and conferring national honours and privileges; and,
- (iii) establishing medical cover and a post-retirement social protection scheme, including establishing contributory insurance and savings schemes to support sports persons who retire from active sporting due to injuries or age.

17\*. **MOTION: 002/2024 – EXPANSION OF MAJOR ROADS IN THE COUNTRY TO DUAL CARRIAGEWAYS**

(The Hon. Faith Gitau, M.P.)

**THAT**, aware that the Kenya Roads Act, 2007 provides for the establishment of road authorities responsible for, among other functions, the management and development of roads under their respective purview and for developing and providing adequate transport infrastructure that guarantees safe and efficient movement of people, goods and services across the country and beyond; further aware that the First Schedule of the Kenya Roads Act provides for the classification of national trunk roads into Classes A, B and Class C; recognizing that the Fourth Schedule to the Constitution assigns to the national government the function of the construction and operation of national trunk roads; noting that a significant portion of highways in the national trunk road network are currently single carriageways; concerned that single carriageway roads pose multifaceted challenges including traffic congestion during peak periods which limits movement of people, goods and services across regions and increases vulnerability to road accidents; further concerned that the lack of footbridges and safe pedestrian crossing areas on these high-traffic roads has been a leading contributor to the surge in road accidents in the recent past; cognizant of the duty of the government to provide a reliable transport system for efficient traffic management, economic development and bolstering interconnectivity among all regions in the country and beyond; now therefore, this House **resolves** that the government, through the Ministry of Roads and Transport, undertakes an expansion programme of national trunk roads with a view of upgrading all classes A, B and C necessary infrastructure that include footbridges, safe crossing zones at regular roads in the country from two-way lanes to dual carriageway (one-way roads) with the intervals, proper drainage systems, and other requisite infrastructure for their optimal operation.

18\*. **THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILL NO. 37 OF 2023)**

(The Hon. Jack Wamboka, M.P. – *Co-Sponsor*)

Second Reading

19\*. **THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2024)**

(The Hon. Sabina Chege, M.P.)

Second Reading

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**\*Denotes Orders of the Day\***

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...../Notices\*

# **NOTICES**

## **I. THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 61 OF 2022)**

- 1) Notice is given that the Chairperson of the Departmental Committee on Health intends to move the following amendments to the Assisted Reproductive Technology Bill, 2022 at the Committee Stage—

### **CLAUSE 2**

**THAT**, Clause 2 of the Bill be amended —

- (a) by deleting the definition of the term “assisted reproductive technology” and substituting therefor the following new definition—

“assisted reproductive technology” means the manipulation of eggs, sperm or embryos outside the human body and transferring the gamete or embryo into the reproductive system of a woman to increase the likelihood of a successful pregnancy;

- (b) in the definition of the term “assisted reproductive technology expert” by inserting the words “and includes other professionals whose expertise is required in assisted reproductive technology” immediately after the words “fertility medicine”;

- (c) by deleting the definition of the term “child” and substituting therefor the following new definition—

“child” means an individual who has not attained the age of eighteen years;

- (d) in the definition of the term “couple” by inserting the words, “or intersex person” immediately after the word “female”;

- (e) by deleting the definition of the term “cryo-preservation” and substituting therefor the following new definition—

“cryo-preservation” means the assisted reproductive technology of freezing and storing of gametes, zygotes, embryos, ovarian and testicular tissues;

- (f) by deleting the definition of the term “donor” and substituting therefor the following new definition—

“gamete donor” means a person who provides sperm or oocyte with the objective of enabling an infertile person to have a child and the person need not be the spouse of the person he or she is donating the gametes to;

by deleting the definition of the term “embryo” and substituting therefor the following new definition—

“embryo” means a cell or group of cells containing a diploid complement of chromosomes or group of such cells, not a gamete or gametes, that has the potential to develop into a live born human being if transferred into the body of a person under conditions in which gestation may be reasonably expected to occur;

- (g) in the definition of the term “embryologist” by inserting the words “the creation, development, storage and transfer of embryos, and” immediately after the words “deals with”;
- (h) in the definition of the term “embryology” by deleting the words “gametes and development of embryos” and substituting therefor the words “creation, development, storage and transfer of gametes or embryos”;
- (i) in the definition of the term “endoscopic surgery” by deleting the words, “and passing a telescope with a video camera through the incision into the body cavity”;
- (j) in the definition of the term “father” by —
  - (i) deleting the words “placing in the woman an embryo or sperm and eggs or the artificial insemination” appearing in the opening sentence of that definition and substituting therefor the words “transferring into a uterus an embryo or sperm and eggs or the intrauterine insemination”;
  - (ii) deleting the words “placing in the woman the embryo or the sperm and eggs or artificial insemination” appearing in paragraph (a) and substituting therefor the words “transferring into a uterus the embryo or the sperm and eggs or intrauterine insemination”; and
  - (iii) deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) the man did not donate his sperms for the process of assisted reproduction, and at the time of transferring into a uterus, the embryo or the sperm and eggs or intrauterine insemination of the woman—

    - (i) the man was party to a marriage with the woman; or
    - (ii) man has in agreement with the woman, written a parental agreement acquiring parental rights of a father;
    - (iii) the man is a commissioning or intending parent at the time of assisted reproductive technology”;
- (k) in the definition of the term “in-vitro fertilization” by deleting the words “in a test-tube or elsewhere”;

- (l) by deleting the definition of the term “mother” and substituting therefor the following new definition—

“mother” means a woman who—

- (i) is carrying or has carried a child as a result of placing in her an embryo or sperms;
- (ii) was party to a marriage with the man whose sperm was utilized to create an embryo;
- (iii) has in agreement with the man, written a parental agreement acquiring parental rights of a mother; or
- (iv) is a commissioning or intending parent at the time of assisted reproductive technology;

- (m) in the definition of the term “oocyte” by deleting the word “oocyte” and substituting therefor the word “egg”;

- (n) by deleting the definition of the term “parties to a marriage”;

- (o) in the definition of the term “pre-implantation genetic diagnosis” by deleting the words “and eliminating the same”;

- (p) in the definition of the term “pre-implantation screening” by deleting the words “to determine the number of chromosomes” and substituting therefor the words “to determine the viability or euploidy of an embryo before transferring to the woman’s womb”;

- (q) by deleting the definition of the term “primitive streak”;

- (r) by deleting the definition of the term “sperm” and substituting therefor the following new definition—

“sperm” means the mature male human gamete;

- (s) in the definition of the term “surrogacy” by deleting the words “a commissioning parent or couple” and substituting therefor the words “an intended parent”;

- (t) in the definition of the term “surrogate mother” by deleting the words “another woman” and substituting therefor the words “another person or a couple”

- (u) by inserting the following new definitions in the proper alphabetical sequence—

“abandonment” means failure to continue to pay for cryopreservation storage of gametes or embryos;

- Cap. 141. “best interest of the child” has the meaning assigned to it under section 2 of the Children Act;



“clinic” means a health facility licensed under this Act for the purpose of conducting assisted reproduction procedures;

“cryo bank” means a facility set up to store and supply human gametes or embryos;

“foetus” means the developing human offspring after the embryonic stage prior to birth;

“gestational surrogacy” means the process where a woman who did not provide or donate an egg, carries a pregnancy for the intended parents;

“intended parents” means a couple or commissioning parents who enter into a surrogacy arrangement seeking assistance in procreation through the help of a surrogate mother or donor;

“intersex” means a person with a congenital condition in which the biological sex characteristics cannot be exclusively categorized in the common binary male or female due to inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns;

“ovum” means a single cell released from either of the female reproductive organs that is capable of developing into a new organism when fertilized with a sperm cell;

“pre-implantation genetic testing” means all techniques used to identify genetic defects and aneuploidy in embryos created through in-vitro fertilization before transfer;

“supervisor” means the person responsible for activities authorized under the licence issued under this Act;

“surrogacy agreement” means an agreement between a surrogate and an intended parent or intended parents that the surrogate is to undergo an assisted reproduction procedure for purposes of having a child born as a result of such procedure being treated in law as—

- (a) the child of the intended parent or parents; and
- (b) not being the child of the surrogate or any other individual; and

“zygote” means a diploid cell resulting from the fusion of two haploid gametes.

### **CLAUSE 3**

**THAT**, the Bill be amended by deleting Clause 3 and substituting therefor the following new clause 3—

- Application.      3. This Act applies to a medically assisted reproductive process whether or not the process is completed outside the human body.

**CLAUSE 4**

**THAT**, Clause 4 of the Bill be amended by—

- (a) deleting the words “object and purpose” appearing in the marginal note and substituting therefor the word “objects”; and
- (b) inserting the following new paragraphs immediately after paragraph (c) —
  - “(d) ensure the best interest of children;
- (e) facilitate the registration of children born out of gestational surrogacy arrangements;
- (f) promote research into the incidence, causes and prevention of infertility;
- (g) provide a framework for surrogacy arrangements;
- (h) prohibit commercial surrogacy; and
- (i) establish an assisted reproduction Directorate”.

**NEW CLAUSE 4A**

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

Guiding  
principles.

**4A.** The application of this Act shall be guided by principles including—

- (a) the best interest of the child born as a result of assisted reproductive procedures;
- (b) non-exploitation of parties;
- (c) non-discrimination including on marital status; and
- (d) affordability of procedures under this Act.

**CLAUSE 7**

**THAT**, Clause 7 of the Bill be amended by deleting the words “National Government” and substituting therefor the words “Cabinet Secretary”.

**CLAUSE 8**

**THAT**, Clause 8 of the Bill be amended—

- (a) inserting the word “training,” immediately after the words “National Government in” appearing in paragraph (a);
- (b) deleting the word “adequate” appearing in paragraph (b); and
- (c) deleting the words “sufficient” and “adequately” appearing in paragraph (c).

**CLAUSE 9**

**THAT**, Clause 9 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

“(3) A person shall be qualified for appointment as a Director if the person—

- (a) holds a bachelor’s degree in medicine from a university recognized in Kenya;

- (b) holds a master's degree in obstetrics, gynaecology, embryology, fertility medicine or other relevant field from a university recognized in Kenya;
- (c) has at least ten years' experience in assisted reproductive technology;
- (d) has served in a senior management position for at least five years;
- (e) is a member in good standing of a professional body; and
- (f) meets the requirements of Chapter Six of the Constitution."

#### **CLAUSE 12**

**THAT**, Clause 12 of the Bill be amended in sub-clause (1) by deleting the words "written consent, in accordance with the prescribed Regulations, to its use for that purpose" and substituting therefor the words "written informed consent".

#### **CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended in—

- (a) the marginal note by inserting the word "informed" immediately before the word "consent"; and
- (b) sub-clause (1) by deleting the words "written consent, in a manner prescribed by Regulations, to its removal for that purpose" and substituting therefor the words "written informed consent".

#### **CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended by deleting the words "medical doctor that the person requires assisted reproductive technology on medical or health grounds" and substituting therefor the words "a doctor who is an assisted reproductive technology expert, that the person requires assisted reproductive technology".

#### **CLAUSE 16**

**THAT**, Clause 16 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b)—

“(c) a gamete or embryo other than that consented to by the woman;”

#### **CLAUSE 17**

**THAT**, Clause 17 of the Bill be amended by—

- (a) deleting the word "minor" appearing in the marginal note and substituting therefor the words "a child".
- (b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

“(1) A person shall not obtain a sperm or ovum from a child or use any sperm or ovum obtained from a child except for medical reasons and future human procreation by the child and with informed consent of the minor, parent or legal guardian of the child.”

**CLAUSE 18**

**THAT**, Clause 18 of the Bill be amended by—

- (a) deleting the marginal note and substituting the following new marginal note—  
“Restrictions on the use of embryos”.
- (b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—  
“(1) A person shall not—
  - (a) keep or use an embryo other than a human embryo;
  - (b) place a human embryo in any animal;
  - (c) transfer an embryo in a woman other than a human embryo;
  - (d) keep or use a human embryo in circumstances prohibited under this Act or as prescribed by regulations;
  - (e) replace any part of a human embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such replacement is for purposes of solving a medical problem; or
  - (f) undertake any form of human cloning.”

**CLAUSE 19**

**THAT**, Clause 19 of the Bill be amended in sub-clause (1) by—

- (a) inserting the word “informed” immediately after the words “without his” appearing in paragraph (b);
- (b) inserting the word “informed” immediately after the words “without her” appearing in paragraph (c);
- (c) deleting the words “place sperm and eggs or embryo in a woman” appearing in paragraph (e) and substituting therefor the words “transfer sperms or embryo into a womb”; and
- (d) inserting the following new paragraph immediately after paragraph (e)—  
“(f) in the course of providing assisted reproductive treatment services for any woman, use the sperm of any man without the woman’s informed consent”.

**NEW CLAUSES 19A, 19B, AND 19C**

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 19—

Number of  
times one can  
donate gametes  
or embryos or  
be a surrogate.

**19A.** (1) A person shall not donate their gametes or embryos more than ten times.

(2) A person shall not perform a treatment procedure using gametes or an embryo produced by a donor if such procedure may result in more than ten children who are genetic siblings.

(3) A surrogate mother shall not enter into a surrogacy agreement more than three times in her lifetime and shall be required to wait for two years between each birth to be eligible for another surrogacy agreement.

Donation  
gametes  
or  
embryos.

of **19B.** (1) A cryo bank shall obtain—

- (a) male gametes from males between twenty-one years of age and thirty-five years of age; or
- (b) oocytes from females between twenty-three years of age and thirty-five years of age.

(2) An assisted reproductive clinic under this Act shall examine donors for diseases as may be prescribed by the Directorate.

Disposal  
gametes.

of **19C.** (1) The Directorate may, under such conditions as may be prescribed, permit—

- (a) disposal of gametes after ten years of preservation;
- (b) donation of gametes to other couples pursuing assistive reproductive technology; or
- (c) the conduct of research on stem cells and zygotes that are not more than fourteen days old on a written application and where;
  - (i) the applicant undertakes to document the research for record purposes; and
  - (ii) prior consent is obtained from the donor of the stem cells or zygotes.

(2) A person who contravenes this provision is guilty of an offence and is liable on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

**CLAUSE 20**

**THAT**, Clause 20 of the Bill be amended by—

- (a) deleting the marginal note and substituting therefor the following new marginal note—

“Posthumous reproduction”

- (b) renumbering the existing clause as sub-clause (1);

- (c) deleting paragraph (b) of the renumbered sub-clause (1) and substituting therefor the following new paragraph (b) —

“(b) there was informed consent in writing by the man.”

- (d) inserting the following new sub-clause immediately after the renumbered sub-clause (1) —

“(2) Where the ovum of a woman or an embryo, the creation of which resulted from the ovum of that woman, was used after the death of that woman, that woman shall not be treated as the mother of the child born out of that ovum or embryo unless the —

- (a) father was married to the woman at the time of the death of the woman;  
and  
(b) woman had given informed consent in writing”.

**NEW CLAUSE 22A**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 22—

Right to assisted reproductive technology by persons with disability. **22A.** The national and county governments shall put in place measures to ensure that persons with disability have access to appropriate assisted reproductive technology services.

**CLAUSE 23**

**THAT**, Clause 23 of the Bill be amended—

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) The consent under subsection (1) shall make express provisions on—

- (a) the ownership of the gametes or embryos;  
(b) the number of embryos to be implanted; and  
(c) what should be done with the gametes or embryos in case of—  
(i) the death of any of the parties seeking assisted reproductive technology services;

- (ii) incapacity of any of the parties seeking assisted reproductive technology services;
- (iii) abandonment of the gametes or embryos;
- (iv) dispute;
- (v) divorce; or
- (vi) separation.”
- (b) in sub-clause (3) by deleting the words “death or incapacity of any of the parties” and substituting therefor the words “the circumstances set out in subsection 2(c)”;
- (c) in sub-clause (4) by deleting the word “implanting” and substituting therefor the words “transfer of”.

#### **CLAUSE 24**

**THAT**, Clause 24 of the Bill be amended in—

- (a) sub-clause (1) by deleting the word “all” appearing in paragraph (b) and substituting therefor the words “possible hereditary”;
- (b) sub-clause (2) by—
  - (i) inserting the words “if any” immediately after word “skills” appearing in paragraph (g); and
  - (ii) inserting the following new paragraphs immediately after paragraph (g) —
    - “(h) consent or otherwise to disclosure of identity to possible offspring”;
    - “(i) consent or otherwise for the use of donated material for research”.

#### **NEW CLAUSE 24A**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24—

Pre-implantation  
diagnosis or  
testing.

**24A.** (1) A donor shall undergo a pre-implantation diagnosis or testing for purposes of screening the human embryo or gamete for known, pre-existing, heritable or genetic diseases.

(2) The donation of an embryo after pre-implantation genetic diagnosis to an approved research laboratory for research purposes shall be done

—

- (a) with the approval of the commissioning couple or woman; and
- (b) when the embryo suffers from pre-existing, heritable, life-threatening or genetic diseases.

#### **CLAUSE 25**

**THAT**, the Bill be amended by deleting Clause 25.

**CLAUSE 26**

**THAT**, Clause 26 of the Bill be amended by—

- (a) deleting the words “sexual intercourse” appearing in sub-clause (1) and substituting therefor the words “natural conception”;
- (b) deleting the words “both partners reserve the right to withdraw consent of the implantation of the embryo which has been created by their own sperm or ovum” appearing in sub-clause (3) and substituting therefor the words “both parties will be bound by the agreement and the consent given for the procedure”; and
- (c) deleting sub-clause (5) and substituting therefor the following new sub-clause (5)—

“(5) A child born out of surrogacy or any procedure under this Act shall acquire the citizenship of the intended parent.”

**CLAUSE 27**

**THAT**, Clause 27 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

“(1) A woman who—

- (a) has attained the age of twenty-five years;
- (b) is below the age of forty years;
- (c) has given birth at least to one child;
- (d) understands the rights and obligations accruing under a surrogacy agreement; and
- (e) has undergone comprehensive mental and physical health assessments

may consent to a process of assisted reproduction for purposes of surrogate motherhood.”

- (b) in sub-clause (2) by—

- (i) deleting the word “child” appearing immediately after the words “carry the” and substituting therefor the word “foetus”; and
- (ii) deleting the words “parties to a marriage or couple” and substituting therefor the words “intended parents” .

**NEW CLAUSES 27A AND 27B**

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 27—

Intended  
parents.

**27A.** An intended parent may use assisted reproduction where the person—

- (a) is a Kenyan; and
- (b) has attained the age of twenty-five years; and
- (c) is below the age of fifty-five years.”



Leave related to surrogacy. **27B.** (1) A surrogate mother under this Act shall be entitled to three months lochia leave.

(2) An intended mother under this Act shall be entitled to three months maternity leave.

(3) An intended father under this Act shall be entitled to two weeks paternity leave.

### **CLAUSE 28**

**THAT**, Clause 28 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “Parties to a marriage” and substituting therefor the words “intending parents”;

(b) in sub-clause (3) by— inserting the following new paragraphs immediately after paragraph (g)—

“(h) where the surrogate appoints a next of kin and provides the identity information of the appointed guardian;

(i) where the intending parents appoint a guardian and provides the identity information of the appointed guardian;”

(c) by deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) The Directorate shall carry out pre-approval checks and shall satisfy itself that the—

(a) surrogate and the intended parent or parents have undergone appropriate medical assessments including an assessment on the health of the surrogate, pre-implantation genetic testing or diagnosis;

(b) surrogate and the intended parent or parents have received appropriate counselling and legal advice about the implications of signing the surrogacy agreement and that a report by a counsellor reveals the positive welfare of a child who may be born as a result of an assisted reproduction procedure and the positive welfare of other children who may be affected by any such birth; and

(c) intended parents have taken out an appropriate insurance policy to cover the surrogate becoming ill, with protection under the policy starting no later than the day on which the first assisted reproduction procedure is to be carried out under the surrogacy agreement and ending five years after the surrogate has given birth.”

(d) by inserting the following new sub-clause immediately after the new sub-clause (5)—

“(6) A person may apply to the High Court for any necessary orders on matters relating to—

- (a) the validity of a surrogacy agreement;
- (b) a dispute relating to parentage of a child born as a result of an assisted reproduction procedure; or
- (c) the citizenship of a child born as a result of an assisted reproduction procedure.”

(e) in sub-clause (7) , by deleting the words “in the process” and substituting therefor the words “as a consequence”; and

(f) by inserting the following new sub-clauses immediately after sub-clause (7)—

“(8) A surrogacy agreement may indicate the terms of the agreement including terms prohibiting the surrogate from—

- (a) partaking alcohol;
- (b) smoking;
- (c) using unprescribed drugs; or
- (d) engaging in dangerous activity that may affect the health or life of a child conceived through assisted reproduction technology.

(9) The terms of the agreement under subsection (8) shall not be overly tasking or prejudicial to the surrogate.

(10) The Cabinet Secretary shall make regulations for the better carrying out of the provisions of subsection (8).”

### **NEW CLAUSES 28A AND 28B**

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 28—

Surrogacy  
agreements by third  
parties.

**28A.** (1) No person shall on a commercial basis engage in acts in Kenya or knowingly cause another person to engage in acts on a commercial basis including—

- (a) initiating or taking part in any negotiations with the intention of the making of a surrogacy arrangement;
- (b) offering or agreeing to negotiate the making of a surrogacy arrangement; or
- (c) compiling any information with the intent of using such information in making or negotiating the making of surrogacy arrangements.

(2) For the purposes of this section, a person engages in an act on commercial basis where—

- (a) any payment is at any time received by himself or another in respect of that act; or
- (b) the person engages in that act with the purpose of any payment being received by himself or another in respect of making, negotiating or facilitating the making of any surrogacy arrangement.

(3) In this section, “payment” does not include payment to or for the benefit of a surrogate mother or prospective surrogate mother.

Commercialization  
of surrogacy.

**28B.** (1) No person, organization, surrogacy clinic, laboratory or clinical establishment of any kind shall—

- (a) undertake commercial surrogacy, provide commercial surrogacy or its related component procedures or services in any form or run a racket or an organized group to empanel or select surrogate mothers or use individual brokers or intermediaries to arrange for surrogate mothers and for surrogacy procedures at such clinics, laboratories or at any other place;
- (b) issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated, any advertisement in any manner regarding commercial surrogacy by any means, scientific or otherwise;
- (c) abandon or disown or exploit or cause to be abandoned, disowned or exploited in any form, the child or children born through surrogacy;
- (d) exploit or cause to be exploited the surrogate mother or the child born through surrogacy in any manner whatsoever;
- (e) sell human embryo or gametes for the purpose of surrogacy and run an agency, a racket or an organization for selling, purchasing or trading in human embryos or gametes for the purpose of surrogacy;

- (f) import or assist in the importation in any manner of human embryos or human gametes for surrogacy or for surrogacy procedures; and
- (g) conduct sex education in any form for surrogacy.

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

(3) For the purposes of this section, the term “advertisement” includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media, in electronic or print form.

(4) A registered medical practitioner, fertility expert, embryologist or a person who owns a fertility clinic or is employed by a fertility clinic, centre or laboratory and renders his or her professional or technical services to or at such a clinic or centre or laboratory including on honorary basis or otherwise, and who contravenes any of the provisions of this section, commits an offence and shall on conviction, be liable to pay a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

## **CLAUSE 29**

**THAT**, Clause 29 of the Bill be amended—

(a) in sub-clause (1) by—

- (i) deleting the words “this Act or any other written law” appearing in paragraph (a) and substituting therefor the words “the Constitution”;
- (ii) deleting the word “implantation” appearing in paragraph (b) and substituting therefor the word “transfer”.

(b) by inserting the following new sub-clause immediately after sub-clause (2)—

“(3) Where a dispute arises over matters related to assisted reproductive technology, the disputes may be resolved through mediation, arbitration or court intervention, as may be appropriate.”

**CLAUSE 30**

**THAT**, Clause 30 of the Bill be amended—

(a) by deleting subclause 2 and substituting therefor the following new clause —

“(2) In the event of multiple pregnancies arising out of a surrogacy agreement or where a child born out of a surrogacy agreement has congenital abnormalities all the children born out of the pregnancy shall be the children of the commissioning parent or commissioning parents and the rights and obligations for all parties shall vest as if the pregnancy had borne only one child or normal child.”

(b) in sub-clause (4) by—

- (i) deleting the words “Notwithstanding the provisions of section 28(7) appearing immediately before the words “the surrogate”;
- (ii) inserting the following new paragraph immediately after paragraph (c)—

“(d) compensation irrespective of the pregnancy outcome”;

(c) in sub-clause (5) by—

- (i) deleting the word “law” appearing immediately after the words “provisions of the law” in paragraph (a) and substituting therefor the word “Constitution”; and
- (ii) inserting the following new paragraph immediately after paragraph (d)—

“(e) be entitled to psychological support during and after the pregnancy, provided by the intended parents”.

(d) by inserting the following new sub-clause immediately after sub-clause (7)—

“(8) The intending couple or intending parent shall not abandon the child, born out of a surrogacy procedure, whether within Kenya or outside, for any reason including—

- (a) genetic defect;
- (b) birth defect;
- (c) defects developing subsequent to the birth;
- (d) the sex of a child born out of surrogacy;
- (e) conception of more than one child; or
- (f) any other medical condition.

**NEW CLAUSE 30A**

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

Payments  
relation  
to  
surrogacy.

in to **30A.** (1) The surrogate and the intended parent or parents may include within a surrogacy agreement—

- (a) a description of permitted costs;
- (b) a description of discretionary costs; and
- (c) the length of the payment period in relation to a particular cost.

(2) The surrogate may claim permitted costs incurred for any duration of time as agreed with the intended parent or parents.

(3) Discretionary costs shall be made during the protected period.

(4) An intended parent shall give notice to the Directorate, in accordance with this Act and the regulations made under this section, where the intended parent wants to make a discretionary payment to a surrogate within the protected period.

(5) Parties to a surrogate agreement shall not vary the discretionary payment during the protected period unless with the mutual consent of all parties and after proof of consultation with an advocate.

(6) Nothing in this Act shall prohibit a party from providing greater protections to a surrogate.

(7) The Cabinet Secretary shall make regulations on the discretionary and permitted payments to be made under a surrogacy agreement.

(8) The Cabinet Secretary shall, in making regulations under subsection (7) determine the maximum sum of discretionary costs based on the principles of affordability, non-exploitation of the surrogate and non-exploitation of the intended parents.

(9) In this section—

“discretionary payment” means a payment prescribed in regulations made by the Cabinet Secretary and includes the compensatory consideration paid in addition to the permitted payment;

“permitted costs” includes—

- (a) the costs of travel and subsistence including accommodation incurred in connection with the surrogate—
  - (i) meeting with the intended parent or parents; or
  - (ii) attending medical appointments in connection with surrogacy matters;
- (b) the costs of medical care and legal costs incurred in connection with surrogacy matters;
- (c) the costs incurred in ensuring the surrogate’s physical, mental and emotional well-being in connection with surrogacy matters including the costs of counselling, physiotherapy, antenatal classes and fitness classes;
- (d) the costs of pregnancy-related items for use by the surrogate including maternity clothes;
- (e) any increase in food costs attributable to the surrogate pregnancy or to the surrogate entering the surrogacy agreement;
- (f) any costs incurred in securing assistance with the performance of any day-to-day household task that would normally be performed by the surrogate and which she is unable to perform as a result of carrying or giving birth to a child conceived as a result of surrogacy; and
- (g) the costs of compensating for loss of earnings suffered as a result of the surrogate entering into the surrogacy agreement;

“permitted payments” means the payment incurred by the surrogate to cover the costs of the surrogate pregnancy that must be paid by the intended parents except where the surrogate waives that payment; and

“protected period” means the period beginning when the surrogacy agreement is entered into and ending when the—

- (a) surrogate gives birth to a child, at the end of the period of twelve weeks beginning with the day of the birth;
- (b) surrogacy agreement expires without a child having been conceived, on the expiry of the agreement; or
- (c) resulting child is stillborn or miscarried at the end of twelve weeks of death.

**CLAUSE 32**

**THAT**, Clause 32 of the Bill be amended by—

- (a) deleting sub-clause (1);
- (b) inserting the words “except in the case of transfer of own gametes and embryos for personal use” immediately after the word “Kenya” in sub-clause (2);
- (c) renumbering the existing sub-clause (2) as sub-clause (1) and inserting the following new sub-clause immediately after the renumbered sub-clause (1)—
 

“(2) The sale or transfer of gametes and embryos to any party outside Kenya shall be prohibited except in the case of transfer of a person’s own gametes and embryos for personal use”.

**NEW CLAUSES 32A AND 32B**

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 32—

Offences relating  
to matching  
services.

**32A.** (1) A person who provides surrogacy matching services in return for a payment commits an offence and on conviction, shall be liable to pay a fine not exceeding five hundred thousand shillings or to imprisonment to a term not exceeding one year, or to both, and to a fine not exceeding ten million shillings in the case of a body corporate.

(2) Despite subsection (1), a person does not commit an offence by making use of services which another person is prohibited by this section from providing.

(3) In this section—

“surrogacy matching services” means services provided for purposes of assisting a person who wants to enter into a surrogacy agreement to find a person or persons with whom to enter into the surrogacy agreement.

Prohibition on  
certain  
publications.

**32B.** (1) A person shall not publish, or cause to be published, an advertisement or notice to the effect that a person—

- (a) is or may be willing to enter into a surrogacy arrangement;
- (b) is seeking another person who is or may be willing to enter into a surrogacy arrangement, to act as a surrogate mother or to arrange a surrogacy arrangement;
- (c) is or may be willing to accept any benefit under a surrogacy arrangement for himself or herself;
- (d) is or may be willing to accept any benefit under a surrogacy arrangement for another person that is intended or likely to counsel or procure a person to agree to act as a surrogate.



(2) A person who contravenes this section commits an offence and on conviction, shall be liable to pay a fine not exceeding five hundred thousand shillings or to imprisonment to a term not exceeding one year, or to both, and to a fine not exceeding ten million shillings in the case of a body corporate.

### **CLAUSE 33**

**THAT**, Clause 33 of the Bill be amended by—

(a) inserting the following new paragraph immediately after paragraph (e)—

“(f) the destruction or disposal by a registered assisted reproductive technology provider of any gametes or an embryo formed outside the body of a woman.”;

(b) renumbering the clause as sub-clause (1);

(c) inserting the following new sub-clauses immediately after the re-numbered sub-clause (1)—

“(2) The Directorate shall ensure that all information contained in the register is protected and maintained in a confidential manner in accordance with the relevant data protection and privacy laws.

(3) The Directorate shall maintain all records, charts, forms, reports, consent letters, agreements.

(4) All the documents under this Act shall be preserved for a period of twenty-five years or such period as may be prescribed:

provided that where any criminal or other proceedings are instituted against any surrogacy clinic, the records and all other documents of such clinic shall be preserved until the final disposal of such proceedings.

(5) All records under subsection (3) and (4) shall, at all reasonable times, be made available for inspection to the appropriate authority or to any other person authorized by the appropriate authority.”

### **CLAUSE 34**

**THAT**, Clause 34 of the Bill be amended by deleting the words “twenty-one” appearing in sub-clause (1) and substituting therefor the word “eighteen”.

### **CLAUSE 42**

**THAT**, Clause 42 of the Bill be amended in sub-clause (1) by—

- (i) inserting the word “authorized” immediately before the word “member” appearing in paragraph (b); and
- (ii) deleting the words “unless authorized by the Directorate” appearing in paragraph (d);

**CLAUSE 43**

**THAT**, Clause 43 of the Bill be amended—

(a) in sub-clause (1) by inserting the following new paragraphs immediately after paragraph (f)—

“(g) the cryo bank makes provision for adequate safety and security for the stored gametes or embryos;

(h) the storage tubes are labelled with a unique identifier;

(i) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;

(j) there is maintenance of a movement register of storage and retrieval of stored gametes or embryos; and

(k) the cryo bank has adequate facilities to ensure privacy and confidentiality of the owner of the stored gamete or embryo and the identity of the donor.”

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) Where a donor or person wishing to store their gamete or embryo in a cryo bank through cryo-preservation, the cryo bank shall only store such gamete or embryo for as long as the owners of the gamete or embryo are alive or for a period not exceeding ten years, and the end of this period the embryo or gamete shall be allowed to perish or be donated to a research organization registered under this Act for research purposes with the consent of the commissioning couple or parent in such manner as may be prescribed”.

(c) by inserting the following new sub-clauses immediately after the new sub-clause (2)—

“(3) Where a child wishes to store their gametes or embryo pursuant to this Act, a cryo bank shall preserve such embryo or gamete for a period of twenty years.

(4) A person wishing to store their gametes or embryo for a longer period than the period specified in subsection (2) and (3) shall make an application to the Directorate to approve longer or further storage of a gamete or embryo.

(5) The Directorate may approve the longer storage period where it considers that there are reasonable grounds to do grant a longer period including in the case of a chronic illness or any other ground as prescribed in regulations.

(6) The Directorate shall, in deciding to approve a longer or further storage period under subsection (5), have regard to the age of the applicant and ensure that the applicant shall not exceed the age of fifty-five years in the proposed extension period.

(7) A person may, in case of a pending application to the Directorate under this section, cause or permit gametes or embryos to remain in storage until the Directorate makes a decision on the application.”

#### **CLAUSE 46**

**THAT**, Clause 46 of the Bill be amended in sub-clause (1) by—

- (a) deleting paragraph (d);
- (b) deleting paragraph (e) and substituting therefor the following new paragraph —  
“ (e) that the person responsible has committed a professional malpractice or has been removed from office for contravening the provisions of the Constitution or any other written law”; and
- (c) inserting the words “or any other law and sentenced to imprisonment for a term exceeding six months” immediately after the word “Act” appearing in paragraph (f).

#### **CLAUSE 50**

**THAT**, Clause 50 of the Bill be amended in sub-clause (1) by inserting the following proviso immediately after paragraph (c)—

“and is liable upon conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both”.

#### **NEW CLAUSE 51A**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 51—

Transitional  
provisions.

**51A.** (1) Every clinic or cryo bank which conducts assisted reproductive technology, partly or exclusively shall, within a period of sixty days from the date of establishment of the Directorate, apply for licences provided that such clinics and cryo banks shall cease to conduct any assisted reproduction procedures on the expiry of six months from the date of commencement of this Act, unless such clinics and cryo banks have applied for registration.

(2) On receipt of the application under subsection (1), the Directorate shall, subject to the provisions of this Act and within a period of thirty days—

- (a) issue a certificate of registration and a registration number to the applicant; or
- (b) reject the application in writing with reasons for the rejection.

**CLAUSE 52**

**THAT**, Clause 52 of the Bill be amended —

- (a) in paragraph (c) by deleting the words “planted in” and substituting therefor the words “transferred into”;
- (b) in paragraph (g) by inserting the word “informed” immediately after the words “giving of”;
- (c) in paragraph (h) by deleting the word “children” and substituting therefor the word “embryos”; and
- (d) by renumbering the existing clause as sub-clause (1) and inserting the following new sub-clause immediately after the renumbered sub-clause (1)—

“(2) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by Parliament.”

**NEW PART X- CONSEQUENTIAL AMENDMENTS**

**THAT**, the Bill be amended by inserting the following new part immediately after Part IX—

**PART X- CONSEQUENTIAL AMENDMENTS****NEW CLAUSES 52A, 52B AND 52C**

Amendment of section 2 of Cap. 149. **52A.** The Births and Deaths Registration Act is amended in section 2 by inserting the following new definitions in the proper alphabetical sequence—

“intended parent” has the meaning assigned to it under the Assisted Reproductive Technology Act;

“surrogate mother” has the meaning assigned to it under the Assisted Reproductive Technology Act.

Amendment of section 12 of Cap. 149. **52B.** The Births and Deaths Registration Act is amended in section 12 by inserting the words “or by presenting a surrogacy agreement indicating the particulars of the intended father” immediately after the words “some recognized custom”.

Insertion of a  
new section into  
Cap. 149.

**52C.** The Births and Deaths Registration Act is amended by inserting the following new section immediately after section 12—

Register of persons  
born through  
assisted  
reproductive  
technology.

**12A.** The registrar shall cause to be entered in a certificate of birth of a child born out of assisted reproductive technology procedure, the name of the intended parents upon presentation of a valid surrogacy agreement and verification of the agreement by the Directorate established under section 5 of the Assisted Reproductive Technology Act”.

2) **Notice is given that the Member for Homa Bay Town (Hon. Peter Kaluma) intends to move the following amendments to the Assisted Reproductive Technology Bill, 2022 at the Committee Stage—**

**LONG TITLE**

**THAT**, the Long Title of the Bill be amended by deleting the words “to establish an Assisted Reproductive Technology Directorate”.

**CLAUSE 2**

**THAT**, Clause 2 of the Bill be amended —

- (a) by deleting the definition of the term “assisted reproductive technology” and substituting therefor the following new definition—

“assisted reproductive technology” means all techniques that attempt to obtain a pregnancy by handling the sperm or the oocyte outside the human body and transferring the gamete or the embryo into the reproductive system of a woman;

- (b) in the definition of the term “assisted reproductive technology services” by deleting the words “infertile and sub- fertile man or woman” and substituting therefor the words “infertile couple”;

- (c) by deleting the definition of the term “child” and substituting therefor the following new definition—

“child” means any individual born through the use of assisted reproductive technology;

- (d) by deleting the definition of the term “couple” and substituting therefor the following new definition—

“couple” means a Kenyan male and female who are in a marriage contracted under the Laws of Kenya;

- (e) by deleting the definition of the term “directorate”;

- (f) by deleting the definition of the term “donation” and substituting therefor the following new definition—

- “donation” means a process in assisted reproductive technology of voluntarily giving gametes for purposes of procreation;
- (g) in the definition of the term “donor” by deleting the words “and the person need not be the spouse of the person she or he is donating the gametes to”;
- (h) by deleting the definition of the term “embryo” and substituting therefor the following new definition—  
“embryo” means a developing or developed organism after fertilization till the end of fifty-six days from the day of fertilization;
- (i) by deleting the definition of the term “father” and substituting therefor the following new definition—  
“father” means a male parent;
- (j) by deleting the definition of the term “gamete” and substituting therefor the following new definition—  
“gamete” means a sperm and oocyte or a mature sperm from a man and a mature egg from a woman;
- (k) in the definition of the term “infertility” by deleting the words “one year” and substituting therefor the words “five years”;
- (l) in the definition of the term “in-vitro fertilization” by deleting the words “an egg is fertilized by a sperm in a test-tube or elsewhere outside the body” and substituting therefor the words “fertilization takes place outside the body”;
- (m) by deleting the definition of the term “mother” and substituting therefor the following new definition—  
“mother” means a female parent or woman whose egg is fertilized to produce a child;
- (n) by deleting the definition of the term “sperm” and substituting therefor the following new definition—  
“sperm” means the mature male gamete;
- (o) by deleting the definition of the term “surrogacy” and substituting therefor the following new definition—  
“surrogacy” means a practice whereby one woman bears and gives birth to a child for an intending couple with the intention of handing over such a child to the intending couple after the birth;
- (p) by deleting the definition of the term “surrogate mother” and substituting therefor the following new definition—  
“surrogate mother” means a woman who agrees to bear a child, who is genetically related to the intending couple, through surrogacy from the implantation of an embryo in her womb; and
- (q) by inserting the following new definitions in their proper alphabetical sequence—  
“abandoned child” means a child born out of a surrogacy procedure who has been deserted by his or her intending parents and the surrogate and declared as such by the court after due process;

“altruistic surrogacy” means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses or the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative;

“assisted reproductive technology bank” means an organization that is responsible for the collection and storage of gametes and embryos and the supply of gametes to the assisted reproductive technology clinics or their patients;

“assisted reproductive technology clinic” means a premise equipped with the requisite facilities and medical practitioners registered with the Council for purposes of carrying out the procedures related to assisted reproductive technology;

“commercial surrogacy” means the commercialization of surrogacy services or procedures or its component services or component procedures including the selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or hiring, selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or monetary incentive in cash or in kind, to the surrogate mother or her dependents or her representative, except the medical expenses or the insurance coverage for the surrogate mother;

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253.

“Council” means the Kenya Medical Practitioners and Dentists Council established under section 3 of the Medical Practitioners and Dentists Act;

“fertilization” means the penetration of the ovum by the spermatozoa and fusion of genetic materials resulting in the development of a zygote;

“foetus” means a human organism during the period of its development beginning on the fifty-seventh day following fertilization or conception until birth;

“gamete donor” means a person who provides a sperm or oocyte with the objective of enabling an infertile couple or woman to have a child;

“gestational surrogacy” means a practice whereby a woman carries a child for the intending couple through implantation of an embryo in her womb and the child is not genetically related to the surrogate mother and when it is only for altruistic surrogacy purposes, it is not for commercial purposes or for producing children for sale, prostitution or any other form of exploitation;

“implantation” means the attachment and subsequent penetration by the zona-free blastocyst, which starts five to seven days following fertilization;

“intending couple” means a couple who have a medical indication necessitating gestational surrogacy and who intend to become parents through surrogacy;

“intending woman” means a Kenyan woman who is a widow or divorcee between the age of thirty five to forty five years and who intends to avail the surrogacy;

“intending parents” means an infertile married couple who approach an assisted reproductive technology clinic or assisted reproductive technology bank to obtain the services authorized in respect of that clinic or bank;

“patients” means an individual or a couple who goes to a registered assisted reproductive technology clinic for the management of infertility;

“surrogacy clinic” means a surrogacy clinic, centre or laboratory conducting assisted reproductive technology services, in-vitro fertilization services, genetic counselling centre, genetic laboratory and assisted reproductive technology banks conducting a surrogacy procedure or any clinical establishment conducting surrogacy procedures in any form;

“surrogacy procedures” means all gynecological, obstetrical or medical procedures, techniques, tests, practices or services involving the handling of human gametes and human embryo in surrogacy;

“woman” means any woman above the age of twenty-one years who approaches an assisted reproductive technology clinic or an assisted reproductive bank for purposes of obtaining the authorized services of that clinic or bank;

“prescribed” means prescribed by rules made under this Act;

“zygote” means the fertilized oocyte prior to the first cell division.

### **CLAUSE 3**

**THAT**, the Bill be amended by deleting Clause 3 and substituting therefor the following new Clause 3—

Application.      3. This Act applies to—

- (a) all processes of facilitated human fertilization undertaken outside the human body, whether or not the process is completed outside the human body; and
- (b) heterosexual Kenyan couples, divorced, widowed or single parent Kenyans who have been certified by an assisted reproductive technology expert as infertile or as having other proven medical conditions preventing natural conception.

### **CLAUSE 4**

**THAT**, Clause 4 of the Bill be amended by deleting paragraphs (a), (b) and (c) and substituting therefor the following new paragraphs—



- (a) permit altruistic surrogacy;
- (b) prohibit commercial surrogacy; and
- (c) make consequential provisions thereto.

**CLAUSE 5**

**THAT**, the Bill be amended by deleting Clause 5.

**CLAUSE 6**

**THAT**, Clause 6 of the Bill be amended by —

- (a) deleting the opening sentence and substituting therefor the following new opening sentence—

“The functions of the Council, in respect of the regulation of the use assisted reproductive technology, shall be to—”
- (b) deleting the words “in consultation with the Medical Practitioners and Dentist Council,” appearing in paragraph (i).

**CLAUSE 7**

**THAT**, the Bill be amended by deleting Clause 7.

**CLAUSE 8**

**THAT**, the Bill be amended by deleting Clause 8.

**CLAUSE 9**

**THAT**, the Bill be amended by deleting Clause 9.

**CLAUSE 10**

**THAT**, the Bill be amended by deleting Clause 10.

**CLAUSE 12**

**THAT**, Clause 12 of the Bill be amended in sub-clause (1) by deleting the words “in accordance with the prescribed Regulations, to its use for that purpose”.

**CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended in sub-clause (1) by deleting the words “unless the donor of the material had given written consent, in a manner prescribed by Regulations, to its removal for that purpose” appearing immediately after the words “technology”.

**CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended by inserting the words “is infertile, cannot conceive or carry a pregnancy to term,” immediately after the words “medical doctor that the person”.

**CLAUSE 15**

**THAT**, Clause 15 of the Bill be amended in sub-clause (1) by deleting the word “purely” appearing in paragraph (c).

**CLAUSE 17**

**THAT**, Clause 17 of the Bill be amended by deleting sub clause (1) and substituting with the following new sub clause—

“(1) No person shall obtain a sperm or ovum from a child or a deceased child.”

**CLAUSE 18**

**THAT**, Clause 18 of the Bill be amended by deleting the word “Directorate” and substituting therefor the word “Council”.

**CLAUSE 20**

**THAT**, the Bill be amended by deleting Clause 20.

**CLAUSE 21**

**THAT**, Clause 21 of the Bill be amended—

- (a) by deleting the word “Directorate” appearing in sub-clause (2) and substituting therefor the word “Council”; and
- (a) in sub-clause (3) by inserting the following new sub paragraph immediately after sub paragraph (iv) —
  - “(v) the right of a child born through assisted reproductive technology to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not”.

**CLAUSE 22**

**THAT**, Clause 22 of the Bill be amended by deleting the words “intersex persons” appearing immediately before the words “have access” and substituting therefor the words “heterosexual Kenyan citizens certified by an assisted reproductive technology expert as infertile or as having other medical conditions preventing natural conception”.

**CLAUSE 23**

**THAT**, Clause 23 of the Bill be amended by—

- (a) inserting the following new sub-clause immediately after sub-clause (2)—
  - “(3) The consent under subsection (1) shall provide for the right of the child born through assisted reproductive technology to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not”.
- (b) deleting the existing sub-clause (3) and substituting therefor the following new sub-clause—
  - “(3) The assisted reproductive technology clinics and assisted reproductive technology banks shall not cryo preserve any gamete without specific instructions

and consent in writing from all the parties seeking assisted reproductive technology in respect of what should be done with the gametes in case of death or incapacity of any of the parties”.

(c) deleting the words, “the embryos or” appearing in sub-clause (4).

#### **CLAUSE 24**

**THAT**, Clause 24 of the Bill be amended in sub-clause (1) (c) by inserting the words “under Article 53 of the Constitution including the right to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not” immediately after the word “process”.

#### **CLAUSE 25**

**THAT**, the Bill be amended by deleting Clause 25.

#### **CLAUSE 26**

**THAT**, Clause 26 of the Bill be amended —

- (a) in sub-clause (1) by deleting the words “sexual intercourse” and substituting therefor the words “natural conception”;
- (b) by deleting sub-clauses (2), (3), (4) and (5).

#### **CLAUSE 27**

**THAT**, Clause 27 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) The surrogate mother under subsection (1) shall carry the child on behalf of the couple and where the surrogate mother has no genetic connection with the child shall subject to a court order relinquish all parental rights and responsibilities at birth over the child to the intended parents”.

#### **CLAUSE 28**

**THAT**, Clause 28 of the Bill be amended in—

- (a) sub-clause (1) by deleting the words “Parties to a marriage or commissioning parents” and substituting therefor the words “A couple or intended parents”;
- (b) sub-clause (3)(c) by—
  - (i) deleting sub-paragraph (i) and substituting therefor the following new subparagraph —
    - (i) death of the intended parent, or if a couple, death of one of the intended parents before the birth of the child;
  - (ii) deleting sub-paragraph (ii) and substituting therefor the following new subparagraph —
    - (ii) separation or divorce of the intended parents who were a couple, before the birth of the child;
- (c) sub-clause (3)(d) by deleting the words “commissioning parent or commissioning parents” and substituting therefor the words “intended parent or intended parents”;

- (d) sub-clause (3)(g) by deleting the words “commissioning parent, commissioning parents or parties to marriage” and substituting therefor the words, “intended parent, intended parents or couple”; and
- (e) sub-clause (7) by deleting the words “Parties to a marriage” and substituting therefor the word “couple ”

### **CLAUSE 30**

**THAT**, Clause 30 of the Bill be amended —

(a) in sub-clause (1) by—

- (i) deleting the word “commissioning” and substituting therefor the word “intended”; and
- (ii) inserting the words “where the child is connected to them or subject to a court order” immediately after the word “shall”;

(b) in sub-clause (2) by deleting the word “commissioning” and substituting therefor the word “intended” wherever it appears;

(c) by deleting subclause (3) and substituting therefor the following new subclause—

“(3) Where a child is born out of a surrogacy arrangement—

(a) where the creation of an embryo was brought about with a sperm and an egg of a couple, or where the couple or intended parent is genetically connected to the child, the couple or intended parent shall be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate; or

(b) where the creation of an embryo was brought about with the gametes other than the gamete of a couple or the intended parent or where the couple or intended parent is not genetically connected to the child, the couple or intended parent shall only be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate following a court order;

(d) by deleting sub-clauses (4), (5), and (6).

### **CLAUSE 33**

**THAT**, Clause 33 of the Bill be amended by deleting the word “Directorate” and substituting therefor the word “Council”.

### **CLAUSE 34**

**THAT**, Clause 34 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and

(b) in subclause (1) by deleting the word “twenty-one” and substituting therefor the word “twenty-five”.

**CLAUSE 35**

**THAT**, Clause 35 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**CLAUSE 36**

**THAT**, Clause 36 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**CLAUSE 37**

**THAT**, Clause 37 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**CLAUSE 38**

**THAT**, Clause 38 of the Bill be amended by deleting the words “Directorate in consultation with the Medical Practitioners and Dentists”.

**CLAUSE 40**

**THAT**, Clause 40 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**CLAUSE 41**

**THAT**, Clause 41 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**CLAUSE 42**

**THAT**, Clause 42 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**CLAUSE 43**

**THAT**, Clause 43 of the Bill be amended —

(a) in sub-clause (1) by—

(i) deleting the words, “or embryos” appearing in the opening sentence;

(ii) deleting paragraph (a),(b), (c) and (d);

(iii) deleting the words, “or embryos” appearing in paragraph (e); and

(iv) deleting paragraph (f) and substituting therefor the following new paragraph

—  
“(f) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained”.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause

—

“(2) The storage period in respect of gametes shall be a period not exceeding three years”.

#### **CLAUSE 44**

**THAT**, Clause 44 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

#### **CLAUSE 45**

**THAT**, Clause 45 of the Bill be amended in sub-clause (2) by deleting the word “Directorate” appearing in paragraph (b) and substituting therefor the word “Council”.

#### **CLAUSE 46**

**THAT**, Clause 46 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

#### **CLAUSE 47**

**THAT**, Clause 47 of the Bill be amended by deleting the word “Directorate” appearing in sub-clause (1) and substituting therefor the word “Council”.

#### **CLAUSE 49**

**THAT**, Clause 49 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

#### **CLAUSE 50**

**THAT**, Clause 50 of the Bill be amended by deleting the words “knowingly or recklessly” appearing in sub-clause (1).

#### **CLAUSE 52**

**THAT**, Clause 52 of the Bill be amended by—

(a) deleting the opening sentence and substituting therefor the following new opening sentence—

“The Cabinet Secretary, in consultation with the Council, may, with the prior approval of Parliament, make regulations generally for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations —

(b) deleting paragraph (a), (b), (c), (d), (f) (g), (h) and (p).

## II. **THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 66 OF 2023)**

Notice is given that the Chairperson of the Departmental Committee on Environment, Forestry and Mining intends to move the following amendments to the Environmental Management and Co-ordination (Amendment) Bill, 2023 at the Committee Stage—

### **CLAUSE 2**

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

Amendment of section 42 of Cap.387.

“**2.** Section 42 of the Environmental Management and Co-ordination Act is amended in subsection (3) by inserting the following new paragraphs immediately after paragraph (b)—

(ba) the prohibition of the introduction, growth or maintenance of trees of the eucalyptus species in and along any river, lake, sea or wetland;

(bb) the prohibition of the introduction, growth or maintenance of any invasive species or other potentially dangerous species;”

## **LIMITATION OF DEBATE**

The House resolved on Thursday, February 13, 2025 as follows-

### **Limitation of Debate on Motions**

- III.** **THAT**, each speech in a debate on any **Motion, including a Special motion** be limited in the following manner: A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each, and that ten (10) minutes before the expiry of the time, the Mover be called upon to reply; and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.

### **Limitation of Debate on Individual Members' Bills**

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

## **Tentative business for**

**Wednesday (Afternoon), June 04, 2025**

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*(Published pursuant to Standing Order 38(1))*

It is notified that the following business is tentatively scheduled to appear in the Order Paper for Wednesday (Afternoon), June 04, 2025—

**A. MOTION— RATIFICATION OF THE AGREEMENT ON FISHERIES SUBSIDIES**

(The Chairperson, Departmental Committee on Blue Economy, Water and Irrigation)

*(Question to be put)*

**B. MOTION— REPORT ON CONSIDERATION OF THE AUDITED ACCOUNTS OF STATE CORPORATIONS FOR CENTRAL REGION**

(The Chairperson, Public Investments Committee on Governance and Education)

*(Question to be put)*

**C. SPECIAL MOTION— CONSIDERATION OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON AND MEMBERS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)**

(The Chairperson, Departmental Committee on Justice and Legal Affairs)

**D. MOTION— RATIFICATION OF THE AGREEMENT UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA ON THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION**

(The Chairperson, Departmental Committee on Blue Economy, Water and Irrigation)

*(Subject to tabling of Committee Report and Notice of Motion)*

**E. MOTION— CONSIDERATION OF THE BUDGET ESTIMATES FOR THE FINANCIAL YEAR 2025/2026**

**(General Debate – 1<sup>st</sup> Allotted Day)**

(The Chairperson, Budget and Appropriations Committee)

*(Subject to tabling of the Committee Report and Notice of Motion)*

**F. THE POLITICAL PARTIES (AMENDMENT) (No.2) BILL (SENATE BILL NO. 26 OF 2024)**

(The Leader of the Majority Party)

Second Reading

*(Resumption of debate interrupted on Tuesday, June 03, 2025)*

**G. THE LEARNERS WITH DISABILITIES BILL (SENATE BILL NO. 4 OF 2023)**

(The Chairperson, Departmental Committee on Education)

Second Reading

*(Resumption of debate interrupted on Thursday, April 24, 2025)*

**H. THE NATIONAL COHESION AND INTEGRATION BILL (NATIONAL ASSEMBLY BILL NO. 74 OF 2023)**

(The Chairperson, Committee on National Cohesion and Equal Opportunity)

Second Reading

**I. MOTION— CONSIDERATION OF COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE REPUBLIC OF KENYA AND THE UNITED ARAB EMIRATES**

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

*(Subject to tabling of Committee Report and Notice of Motion)*

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