



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (FIFTH SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**WEDNESDAY, MAY 31, 2017 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. Statements

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

- (i) The Traffic (Amendment) Bill (National Assembly Bill No. 33 of 2014)  
(The Hon. Joseph Lekuton, M.P.)
- (ii) The Refugees Bill (National Assembly Bill No. 29 of 2016)  
(The Hon. Agostinho Neto, M.P.)
- (iii) The Kenya National Examinations Council (Amendment) Bill (National Assembly Bill No. 42 of 2016)  
(The Hon. Alfred Agoi Masadia, M.P.)

**9\*. MOTION – ROAD DESIGNS AND CONSTRUCTIONS TO INCORPORATE RUN-OFF WATER HARVESTING AND MANAGEMENT MECHANISMS**

(The Hon. Joseph M'eruaki, M.P.)

**THAT**, aware that Article 43 of the Constitution provides that every person has the right to clean and safe water in adequate quantities; further aware that water harvesting is an important practice for water management; cognizant of the fact that earth-dams and water-pans would play a key role in water harvesting especially in arid and semi-arid areas; noting that a large quantity of run-off water goes to waste in most parts of the country; further noting that this run-off water if properly harvested and managed would be useful

for domestic, livestock and irrigation purposes; appreciating that increased infrastructural development especially in roads has led to the mobilization of machineries and human resources in most areas; further appreciating that these civil engineering machineries and personnel can be useful in the construction of earth-dams and water-pans; this House **resolves** that the Government through the Ministry of Transport, Infrastructure, Housing and Urban Development ensures that all road designs and constructions incorporate run-off water harvesting and management mechanisms.

**10\*. THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 51 OF 2016)**

(The Hon. Gladys Wanga, M.P.)

Second Reading

**11\*. THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 13 OF 2017)**

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

Second Reading

**12\*. THE HOUSING (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 6 OF 2017)**

(The Hon. Ababu Namwamba, MP)

Second Reading

**13\*. THE EMPLOYMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2017)**

(The Hon. Kinoti Gatobu, M.P.)

Second Reading

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**\* Denotes Orders of the Day**

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## **NOTICES**

### **I. THE TRAFFIC (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2014)**

Notice is given that the Chairperson of the Departmental Committee on Transport, Public Works and Housing intends to move the following amendments to the Traffic (Amendment) Bill 2014 at the Committee Stage—

#### **CLAUSE 2**

**That** Clause 2 of the Bill be amended in the new sub-clause (3A)-

- a) by deleting the word “thirty” appearing immediately after the words “speed exceeding” and substituting therefor the word “fifty”;
- b) in paragraph (d) by inserting the following words “as may be designated as a pedestrian crossing by the highway authority” immediately after the words “from school”; and
- c) by deleting paragraphs (b), (c) and (e).

#### **CLAUSE 3**

**That** Clause 3 of the Bill be amended by deleting the existing clause 3 and substituting therefor the following new clause (3)-

“(1A) A person who contravenes the provisions of section (3A) shall be liable to a fine not exceeding twenty thousand shillings.

(1B) A police officer shall serve upon the person driving or in charge of a vehicle and who commits an offence under section 42 (1), (2) and (3), with a police notification of traffic offence in the prescribed form charging the person of having committed the offence under the section.

(1C) The police notification served under subsection (1B) shall require the person to attend court to answer such charge as may be preferred within forty eight hours of service of the notification.

(1D) The procedure stipulated under section 117 (4), (5), (6), (7), (8), (9) and (10) shall apply to this section.”

**CLAUSE 4**

**That** Clause 4 of the Bill be amended—

(a) by deleting sub clause (2) of the proposed section 105B and substituting therefor the following new sub clause (2)—

“(2) Notwithstanding subsection (1), a motor vehicle designated for transporting children to or from school or for any non-school related activity when they are in a group shall—

(a) be fitted with safety belts designed to be used by children;

(b) be painted in yellow colour and have other signage as may be prescribed;

(c) comply with the conditions imposed on public service vehicles under this Act; and

(d) not operate between the hours of 10:00 pm and 5:00 am.”;

(b) by deleting sub-clauses (3), (4) and (5);

(c) In sub-clause (6) by inserting the following new paragraph immediately after paragraph (c)-

(d) in sub-clause (7) by deleting the words ‘of fifty thousand’ appearing immediately after the word ‘fine’ and substituting therefor the words ‘not exceeding thirty thousand’;

(e) by deleting sub-clause (8) and substituting therefor the following new sub-clause (8)-

“Notwithstanding subsection (7), a person who being the registered owner or driver of a vehicle used for transporting children, who authorizes or permits the use of a vehicle used for transporting children or is negligent to prevent contravention with this Act commits an offence and shall be liable to a fine not exceeding thirty thousand shillings or imprisonment for a term not exceeding two months, or to both.”; and

(f) by inserting the following new sub-clauses (9) and (10) immediately after sub-clause (8)—

“(9) Subsections (1), (2)(a) and (b) shall come into force within twelve months after the enactment of this Act.

(10) The Cabinet Secretary shall, within a period not exceeding twelve months after the enactment of this Act, make the Regulations prescribing matters required to be prescribed under this section.”.

**CLAUSE 5**

**That** Clause 5 of the Bill be deleted.

## **II. THE REFUGEES BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2016)**

Notice is given that the Chairperson of the Departmental Committee on Administration and National Security intends to move the following amendments to the Refugees Bill, 2016 at the Committee Stage—

### **LONG TITLE**

**THAT**, the long title of the Bill be amended by inserting the words “1951 United Nations” immediately after the words “to give effect to the”.

### **CLAUSE 2**

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

- (a) by deleting the definition of the term “asylum seeker” and substituting therefor the following new definition—
  - “asylum seeker” means a person seeking refugee status in accordance with the provisions of this Act;
- (b) in the definition of the term “authorized officer” by deleting the word “Commissioner” and substituting therefor the word “Director”;
- (c) by deleting the definition of the term “Commission”;
- (d) by deleting the definition of the term “Commissioner”;
- (e) in the definition of the term “prima facie refugee status” by deleting the word “Commission” and substituting therefor the word “Committee”;
- (f) in the definition of the term “refugee officer” by deleting the word “Commissioner” and substituting therefor the word “Director”;
- (g) in the definition of the term “transit centre” by deleting the word “Commissioner” and substituting therefor the word “Director”;
- (h) by deleting the definition of the term “Trust Fund”;

(i) by inserting the following new definitions in their proper alphabetic sequence—

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“Committee” means the Refugee Advisory Committee established under section 6 of this Act;

“Director” means the Director for Refugee Affairs appointed under section 10;

“durable solutions” means voluntary repatriation and resettlement to a third party country;

“Eligibility Committee” means the Refugee Status Eligibility Committee established under section 15;

“Secretariat” means the Refugee Affairs Secretariat established under section 6.

### **CLAUSE 3**

**THAT**, clause 3 of the Bill be amended—

- (a) by inserting the expression “(1)” immediately before the words “A person”;
- (b) by inserting the expression “(a)” immediately before the words “owing to a well-founded”;
- (c) by inserting the expression “(b)” immediately before the words “not having a nationality”;
- (d) by inserting the expression “(c)” immediately before the words “owing to external aggression”;
- (e) by inserting the expression “(d)” immediately before the words “the person is a member”; and
- (f) by deleting the word “Commission” wherever it appears and substituting therefor the word “Committee”.

### **CLAUSE 4**

**THAT**, the Bill be amended by deleting clause 4 and substituting therefor the following new clause—

Exclusion and  
disqualification  
of refugees.

**4.(1)** A person shall be excluded from being considered for refugee status if there exists serious reason to believe that the person—

- (a) has committed a crime against peace, a war crime or a crime against humanity as defined in the International Crimes Act;
- (b) has committed a serious non-political crime outside Kenya prior to his or her admission to Kenya as a refugee;
- (c) has been guilty of acts contrary to the purposes and principles of the United Nations and the African Union; or

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(d) has sought asylum in another country.

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- (2) A person shall be disqualified from being a refugee if the person—
- (a) having more than one nationality, has not availed himself or herself for protection of one of the countries which he or she is a national and has no valid fear based on well-founded fear of persecution;
  - (b) has been granted refugee status in another country prior to entry in Kenya and can be re-admitted to that country and benefit currently and in the future in that country from effective protection;
  - (c) is recognized by competent authorities of the country he or she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country, can be re-admitted into that country in the same condition and has no valid reasons based on a well-founded fear of persecution to have left that country.

#### **CLAUSE 5**

**THAT**, clause 5 of the Bill be amended—

- (a) by deleting the expression “(i)” and substituting therefor the expression “(a)”;
- (b) by deleting the expression “(ii)” and substituting therefor the expression “(b)”;
- (c) by deleting the expression “(iii)” and substituting therefor the expression “(c)”;
- (d) by deleting the expression “(iv)” and substituting therefor the expression “(d)”;
- (e) by deleting the expression “(v)” and substituting therefor the expression “(e)”;
- (f) by deleting the expression “(vi)” and substituting therefor the expression “(f)”;
- (g) in the proviso by deleting the expression “(3(a))” and substituting therefor the expression “3(1)(a)”.

#### **CLAUSE 6**

**THAT**, the Bill be amended by deleting clause 6 and substituting therefor the following new clause—

Administrative  
institutions.

**6.** There is established—

- (a) the Refugee Advisory Committee;
- (b) the Refugee Affairs Secretariat; and
- (c) the Refugee Status Appeal Board.

**CLAUSE 7**

**THAT**, the Bill be amended by deleting clause 7 and substituting therefor the following new clause—

The Refugee  
Advisory  
Committee.

7. (1) The Committee shall consist of—
- (a) the chairperson who has knowledge and experience in public affairs for a period of not less than ten years appointed by the Cabinet Secretary;
  - (b) the Principal Secretary or their representative from the Ministry responsible for refugee affairs ;
  - (c) the Principal Secretary or their representative from the ministry responsible for foreign affairs;
  - (d) the Principal Secretary or their representative from the Ministry responsible for devolution affairs;
  - (e) the Principal Secretary or their representative from the Ministry responsible for health;
  - (f) the Principal Secretary or their representative from the Ministry responsible for finance;
  - (g) the principal Secretary or their representative from the Ministry responsible for education;
  - (h) the Attorney-General or their representative;
  - (i) the Director of the Department of Immigration or their representative;
  - (j) the Inspector-General or their representative; and
  - (k) the Director, who shall be the Secretary to the Committee.
- (2) The Committee may when necessary co-opt for a specified period of time a representative from the host communities, a representative from Kenya National Commission for Human Rights and a representative from the United Nations High Commissioner for Refugees on an advisory role only and who shall have no right to vote.
- (3) The quorum for a meeting of the Committee shall be five members.



(4) Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.

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(5) The chairperson shall convene at least four meetings in every year.

(6) Except as expressly provided in this Act, the Committee shall regulate its own procedure as it deems fit.

### **CLAUSE 8**

**THAT**, the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

Functions of the  
Committee.

8. The functions of the Committee shall be to—

- (a) formulate national policies on matters relating to refugees in accordance with international standards;
- (b) advise the Cabinet Secretary on matters relating to refugees;
- (c) make a recommendation for declaration of prima facie status in respect of large scale influxes of refugees; and
- (d) propose and ensure the provision of durable solutions for refugees.

### **CLAUSE 9**

**THAT**, the Bill be amended by deleting clause 9 and substituting therefor the following new clause—

The Refugee  
Affairs Secretariat.

9.(1) The Refugee Affairs Secretariat shall be an office in the Public Service.

(2) The Secretariat shall be responsible for all administrative matters concerning refugees and asylum seekers in Kenya, and shall, in that capacity, co-ordinate activities and programmes relating to refugees and asylum seekers and provide them with assistance and protection.

### **CLAUSE 10**

**THAT**, the Bill be amended by deleting clause 10 and substituting therefor the following new clause—

Director for  
Refugee  
Affairs.

10.(1) There shall be a Director for Refugee Affairs whose office shall be an office in the Public Service and who shall be the head of the Secretariat.

(2) The functions of the Director shall be to—

(a) be the Secretary to the Committee.

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- (b) co-ordinate all measures necessary for promoting the welfare and protection of refugees and asylum seekers and advise the Committee thereon;
- (c) ensure in liaison with other relevant agencies the provision of adequate facilities and services for the protection, reception and care of asylum seekers and refugees within Kenya;
- (d) promote as far as possible durable solutions for refugees granted asylum in Kenya;
- (e) receive and process applications for refugee status determination;
- (f) keep, register and maintain a record of all asylum seekers and refugees in Kenya;
- (g) issue refugee identification documents and facilitate the issuance of civil registration and other relevant documents;
- (h) be the liaison between the department, state actors and relevant stakeholders and shall in that capacity, sensitize and inform on new developments and policy;
- (i) in liaison with Director of Immigration, process and issue conventional travel documents;
- (j) in liaison with the police, arrest any person suspected of committing an offence under this Act;
- (k) manage refugee designated areas and other related facilities;
- (l) form sub-committees and assign to such sub-committees functions to be exercised in relation to the reception, treatment and welfare of asylum seekers and refugees;
- (m) co-ordinate the provision of overall security, protection and assistance for asylum seekers and refugees in the designated areas;
- (n) ensure the civilian and humanitarian character of the designated areas is maintained;
- (o) issue movement passes to refugees and asylum seekers wishing to travel outside the designated areas and within Kenya;
- (p) exempt asylum seekers and refugees from residing in designated

areas where there are compelling reasons to do so;

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- (q) protect and assist vulnerable groups, women, children and persons with disabilities;
- (r) ensure treatment of all asylum seekers and refugees in compliance with national law;
- (s) authorise access of visitors to designated areas;
- (t) facilitate refugees to access work permits and business permits;
- (u) in consultation with the Cabinet Secretary, establish structures and mechanisms for management of refugee humanitarian emergencies;
- (v) initiate, in collaboration with the development partners, projects that promote peaceful and harmonious co-existence between the host communities and refugees;
- (w) advise the Committee on the soliciting of funds for refugee assistance programmes which have a positive impact on host communities;
- (x) ensure that refugee economic and productive activities do not have a negative impact on host communities, natural resources or the local environment; and
- (y) ensure sustainable use of resources in designated refugee hosting areas.

**CLAUSE 11**

**THAT**, clause 11 of the Bill be amended—

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

“(1) The Refugee Status Appeal Board shall consist of—

- (a) a chairperson, who shall be an advocate of not less than ten years’ standing;  
and
- (b) eight members appointed from among persons having knowledge of and experience in matters relating to—
  - (i) refugee affairs;
  - (ii) immigration;
  - (iii) foreign affairs;
  - (iv) national security; and
  - (v) public administration.

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(1A) The members of the Board shall be appointed by the Cabinet Secretary by notice in the Gazette.

(1B) A member of the Appeal Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of four years.

(1C) The Board may, where necessary, co-opt to invite a person with specialized knowledge and skill to attend the sittings of the Board, but such person shall not have the right to vote.”

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

“(5) The function of the Appeal Board shall be to hear and determine appeals against any decision of the Director with regard to refugee status determination.”

### **CLAUSE 13**

**THAT**, clause 13 of the Bill be amended—

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

“(1) An application for the grant of refugee status shall be made to the Secretariat either directly or through an authorized officer or an officer of the United Nations appointed by the Committee.”

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

“(2) An authorized officer to whom any asylum seeker presents himself or herself shall refer that asylum seeker to the relevant authority.”

(c) by deleting the word “Commissioner” wherever it appears and substituting therefor the word “Director”.

### **CLAUSE 14**

**THAT**, clause 14 of the Bill be deleted.

### **CLAUSE 15**

**THAT**, clause 15 of the Bill be amended—

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

“(1) There is established a Refugee Status Eligibility Committee which shall consist of the following members—

(a) a chairperson appointed by the Cabinet Secretary;

(b) not less than four other members appointed by the Cabinet Secretary from the following departments in consultation with their respective Cabinet Secretaries—

- (i) a representative of the ministry responsible for internal affairs;
- (ii) a representative of the Inspector-General of Police; and
- (iii) a representative of the Director of Immigration Services.

(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) The Refugee Affairs Secretariat shall provide secretariat services to the Eligibility Committee.”

### **CLAUSE 16**

**THAT**, the Bill be amended by deleting clause 16 and substituting therefor the following new clause—

Functions of the  
Eligibility Committee.

**16.** (1) The Eligibility Committee shall review recommendations of the Secretariat arising from the refugee status determination process and advise the Director.

(2) Upon receipt of the advice of the Eligibility Committee, the Director shall make a determination and cause the applicant to be informed of his or her decision.

### **CLAUSE 17**

**THAT**, clause 17 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “Eligibility Committee” and substituting therefor the word “Director”;

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

“(2) An applicant who is aggrieved by a decision of the Director may, through his or her representative or any other interested party, appeal to the Appeal Board within thirty days of receiving written notification of the decision.”;

(c) by deleting sub-clause (3); and

(d) by deleting sub-clause (4).

### **CLAUSE 19**

**THAT**, clause 19 of the Bill be amended by inserting the words “in accordance with the provisions of the Public Health Act” immediately after the words “special holding centre”.

## **CLAUSE 20**

**THAT**, clause 20 of the Bill be amended—

- (a) by deleting sub-clause (6);
- (b) in sub-clause (10) by deleting the word “not” appearing immediately after the words “under this section shall”;
- (c) by deleting the word “Commissioner” wherever it appears and substituting therefor the word “Director”.

## **CLAUSE 21**

**THAT**, the Bill be amended by deleting clause 21 and substituting therefor the following new clause—

Revocation  
of refugee  
status.

**21.**(1) The Director may revoke the status of any refugee if the refugee at any time after recognition as a refugee has committed a crime against peace, a war crime or a crime against humanity, as defined in any international instrument to which Kenya is a party and which has been drawn up to make provision in respect of such crimes:

Provided that the revocation shall however not affect any member of the family.

(2) The procedures for cancellation under section 20 shall generally apply in the case of revocation.

(3) Where refugee status under this part has been revoked that person shall cease to be a refugee under this Act on the expiration of seven days after the date on which the Director notifies the person concerned that his or her recognition has been revoked.

(4) Where refugee status under this part has been revoked, every person who, immediately before such revocation, was within Kenya as a member of the family of such refugee shall maintain his or her refugee status and be permitted to continue to remain in Kenya in accordance with the provisions of this Act.

(5) Any person whose refugee status has been cancelled or revoked shall leave the country within thirty days of notification of the final order relating to the cancellation or revocation, failing which the Cabinet Secretary shall remove such person immediately.

**NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 21—

Expulsion  
of refugees  
or members  
of their  
families.

**21A.** (1) Subject to section 33, the Cabinet Secretary may order the expulsion from Kenya of any refugee or member of his family if the Cabinet Secretary considers the expulsion to be necessary on the grounds of national security or public order.

(2) Before ordering the expulsion from Kenya of any refugee or member of his family in terms of subsection (1) of this section, the Cabinet Secretary shall act in accordance with the due process of law.

**CLAUSE 22**

**THAT**, clause 22 of the Bill be deleted.

**CLAUSE 23**

**THAT**, clause 23 of the Bill be deleted.

**CLAUSE 24**

**THAT**, the Bill be amended by deleting clause 24 and substituting therefor the following new clause—

Refugee  
women and  
children.

**24.**(1) The Director shall ensure that specific measures are taken to ensure the dignity and safety of women and children seeking asylum and women and children who have been granted refugee status at all times during their stay in designated areas.

(2) The Director shall ensure that a child who is in need of refugee status or who is considered a refugee receives appropriate protection and assistance, whether accompanied or not by his parents or any other person.

(3) The Director shall, as far as possible, assist a child referred to in subsection (2) to trace the parents or other members of the family in order to obtain information necessary for the reunification of the child with his or her family.

(4) Where the parents of the child or other members of the child’s family cannot be found, the child shall be accorded the same protection as any child permanently or temporarily deprived of his or her family.

**CLAUSE 25**

**THAT**, clause 25 of the Bill be amended by deleting the word “Commissioner” and substituting therefor the word “Director”.

**CLAUSE 26**

**THAT**, clause 26 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) The Cabinet Secretary may, on application being made to him or her by the person concerned, extend the three-month period referred to in subsection (1)(c) if he or she is satisfied that there is a reasonable likelihood of the person being admitted to a country of his or her choice within such extended period.”

**CLAUSE 28**

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

- (a) in sub-clause (1) by deleting the word “Commissioner” and substituting therefor the word “Director”; and
- (b) by inserting the following new subsection immediately after subsection (2)—

“(3) An asylum seeker shall report to the nearest government administrative officer who shall then direct him or her to the designated refugee reception officers.”

**CLAUSE 29**

**THAT**, clause 29 of the Bill be amended by deleting paragraph (f).

**CLAUSE 30**

**THAT**, clause 30 of the Bill be amended by inserting the words “within forty eight hours” immediately after the words “government administrative centre”.

**CLAUSE 31**

**THAT**, clause 31 of the Bill be deleted.

**CLAUSE 32**

**THAT**, the Bill be amended by deleting clause 32 and substituting therefor the following new clause—

Rights of refugees  
under international  
instruments.

**32.** Subject to this Act, every recognized refugee and every member of his or her family in Kenya—

- (a) shall be entitled to the rights and be subject to the obligations contained in the international conventions to which Kenya is party; and
- (b) shall be subject to all laws of Kenya.



**CLAUSE 33**

**THAT**, clause 33 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Committee”.

**CLAUSE 34**

**THAT**, clause 34 of the Bill be deleted.

**CLAUSE 35**

**THAT**, clause 35 of the Bill be deleted.

**CLAUSE 36**

**THAT**, clause 36 of the Bill be deleted.

**CLAUSE 37**

**THAT**, clause 37 of the Bill be amended by deleting the words “shall be entitled to” and substituting therefor the word “may”.

**CLAUSE 38**

**THAT**, clause 38 of the Bill be deleted.

**CLAUSE 39**

**THAT**, clause 39 of the Bill be deleted.

**CLAUSE 40**

**THAT**, clause 40 of the Bill be deleted.

**CLAUSE 41**

**THAT**, clause 41 of the Bill be deleted.

**CLAUSE 42**

**THAT**, clause 42 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “Commission” and substituting therefor the word “Committee”;
- (b) in sub-clause (2) by deleting the word “Commissioner” and substituting therefor the word “Director”.

**CLAUSE 44**

**THAT**, clause 44 of the Bill be amended by deleting the words “the Commission shall, after” appearing immediately after the words “under section 4” and substituting therefor the words “the Committee shall, in”.

**CLAUSE 45**

**THAT**, clause 45 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words “Commissioner of Refugee affairs” and substituting therefor the word “Director”;
- (b) by deleting sub-clause (3); and
- (c) by deleting sub-clause (4).

**CLAUSE 46**

**THAT**, clause 46 of the Bill be amended by deleting the word “Commissioner” wherever it appears and substituting therefor the word “Director”.

**CLAUSE 47**

**THAT**, clause 47 of the Bill be amended by deleting sub-clause (2).

**CLAUSE 49**

**THAT**, clause 49 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “a person authorised by the Director” immediately after the words “No person other than”;
- (b) by renumbering the subsections after subsection (2) as (3) and (4).

**CLAUSE 50**

**THAT**, clause 50 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—  
“(1) The Director shall ensure that there is shared use of common social amenities between the refugees and the host communities.”
- (b) in sub-clause (2) by deleting the word “Commissioner” and substituting therefor the word “Director”.

**CLAUSE 51**

**THAT**, clause 51 of the Bill be amended by deleting the word “Commissioner” and substituting therefor the word “Director”.

**CLAUSE 52**

**THAT**, clause 52 of the Bill be deleted.

**CLAUSE 53**

**THAT**, clause 53 of the Bill be amended by—

- (a) deleting sub-clause (3); and
- (b) deleting sub-clause (4) appearing immediately after sub-clause (3).

**CLAUSE 54**

**THAT**, clause 54 of the Bill be amended by—

- (a) deleting sub-clause (2);
- (b) deleting sub-clause (3);
- (c) deleting sub-clause (4); and
- (d) deleting sub-clause (5).

**CLAUSE 55**

**THAT**, clause 55 of the Bill be deleted.

**CLAUSE 56**

**THAT**, clause 56 of the Bill be deleted.

**CLAUSE 59**

**THAT**, clause 59 of the Bill be amended in sub-clause (1) by inserting the word “or” immediately after the words “authorized officer”.

**CLAUSE 60**

**THAT**, clause 60 of the Bill be deleted.

**CLAUSE 61**

**THAT**, clause 61 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “Commissioner” and substituting therefor the word “Secretariat”;
- (b) in sub-clause (2) by deleting the word “Commissioner” and substituting therefor the word “Secretariat”; and
- (c) in sub-clause (3)—
  - (i) by deleting the word “Commissioner” where it appears in the first instance and substituting therefor the word “Secretariat”;
  - (ii) by deleting the word “Commissioner” where it appears in the second instance and substituting therefor the word “Director”;
- (d) in sub-clause (4) by deleting the word “Commissioner” and substituting therefor the word “Director”.

**CLAUSE 63**

**THAT**, clause 63 of the Bill be amended—

- (a) by deleting sub-clause (4) appearing in the first instance and substituting therefor the following new sub-clause—

“(4) Where there is disunity in the family of a refugee as a result of divorce, separation or death of any member of that family, a member of the family may remain in Kenya and shall have to apply within a maximum period of ninety days from the time of disunity of the family for the acquisition of the refugee status or for a legalisation of the residence in Kenya under the Kenya Citizenship and Immigration Act.”

(b) by renumbering the sub-clause (4) appearing in the second instance as sub-clause (5).

**CLAUSE 64**

**THAT**, clause 64 of the Bill be amended in paragraph (c) by deleting the words “or protected person” and substituting therefor the words “asylum seeker”.

**CLAUSE 65**

**THAT**, clause 65 of the Bill be amended—

- (a) in paragraph (a) by inserting the words “or any other written law” immediately after the word “Act”; and
- (b) in paragraph (b) by deleting the word “misstatement” and substituting therefor the word “misrepresentation”.

**CLAUSE 67**

**THAT**, clause 67 of the Bill be deleted.

**CLAUSE 68**

**THAT**, clause 68 of the Bill be amended by deleting the words “Commission, the Secretariat of Refugee Affairs” and substituting therefor the words “Committee, the Secretariat”.

**CLAUSE 70**

**THAT**, clause 70 of the Bill be amended in sub-clause (4) by deleting the word “Commissioner” and substituting therefor the word “Director”.

### **III. THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 42 OF 2016)**

- 1) Notice is given that the Chairperson of the Departmental Committee on Education, Research and Technology intends to move the following amendments to the Kenya National Examination Council (Amendment) Bill, 2016 at the Committee Stage—

#### **CLAUSE 1**

THAT clause 1 of the Bill be deleted.

#### **CLAUSE 2**

THAT clause 2 of the Bill be deleted.

- 2) Notice is given that the Member for Kibra (Hon. Ken Okoth), intends to move the following amendments to the Kenya National Examination Council (Amendment) Bill, 2016 at the Committee Stage—

#### **CLAUSE 2**

THAT clause 2 of the Bill be deleted.

#### **NEW CLAUSES**

THAT the Bill be amended by inserting the following new clauses—

Amendment  
of section 2  
of Cap  
225A.

**2A.**The Kenya National Examinations Council Act in this Bill referred to as the “principal Act” is amended in Section 2 by inserting the following new definitions in their proper alphabetical sequence—

“Technical and Vocational Education and Training Authority” means the Technical and Vocational Education and Training Authority established under section 6 of the Technical and Vocational Education and Training Act;

No.  
29 of  
2013.

“Tribunal” means the National Examinations Tribunal established under section 40B;

Insertion of  
a new  
section into  
Cap 255A.

**2B.** The principal Act is amended by inserting the following new section immediately after section 40—

Offences  
examination officers. by

**40A.** A member, officer, agent or staff of the Council whose omission or commission leads to an examination irregularity commits an offence and is liable upon conviction, to imprisonment for a term not exceeding five years or a fine not exceeding five million shillings, or both.

Insertion of  
a new part  
into Cap.  
225A.

**2C.** The principal Act is amended by inserting the following new part immediately after the proposed new section 40A—

#### **PART IVA – NATIONAL EXAMINATIONS APPEALS TRIBUNAL**

National  
Examinations  
Appeals  
Tribunal.

**40B.** (1) There is established a Tribunal to be known as the National Examinations Appeals Tribunal.

(2) The Tribunal shall consist of—

(a) a chairperson, nominated by the Judicial Service Commission who shall be an advocate of the High Court of Kenya of at least fifteen years standing;

(b) two persons nominated jointly by the associations for the time being representing head teachers and principals in the country;

(c) one person having at least ten years' experience in marking examinations; and

(d) one person nominated by the Technical and Vocational Education and Training Authority.

(3) The nominating bodies under subsection (2) shall nominate and submit the names of at least two nominees, being one man and one woman, to the Cabinet Secretary for appointment.

(4) The Cabinet Secretary shall appoint the members of the tribunal by notice in the *Gazette*.

(5) A person shall not be eligible for appointment under subsection (4) if at the time of appointment the person is an employee of the Council or was an employee of the Council five years before the date of appointment.

(6) In making appointments under subsection (4) the Cabinet Secretary shall—

- (a) ensure that not more than two-thirds of the appointees are of the same gender; and
- (b) have regard to the principle of regional balance.

Tenure.

**40C.**(1) The chairperson of the Tribunal shall serve for a term of four years and shall be eligible for reappointment for one further term.

(2) A Member of the Tribunal shall serve for a term of three years and shall be eligible for reappointment for one further term of three years.

Remuneration.

**40D.** The members of the Tribunal shall be paid such allowances as the Cabinet Secretary may, in consultation with the Salaries and Remuneration Commission, determine.

Vacancy in office of member.

**40E.** The office of a member of the Tribunal shall become vacant if the member—

- (a) resigns by notice in writing addressed to the Cabinet Secretary;
- (b) is convicted of an offence and sentenced to imprisonment for a term of at least six months without the option of a fine;
- (c) is absent from three consecutive meetings of the Tribunal without the permission of the Chairperson;
- (d) is adjudged bankrupt;
- (e) is convicted of an offence involving fraud, dishonesty or moral turpitude;
- (f) is unable, by reason of mental or physical infirmity, to discharge the functions as a member of the Tribunal;
- (g) is otherwise unfit or unable to discharge the functions of the office; or
- (h) dies.

Sittings of the Tribunal.

**40F.** The Tribunal shall be ad hoc and shall sit at such times and in such places as the Tribunal may appoint.

Quorum.

**40G.** (1) The Tribunal shall be properly constituted if at least three of the members of the Tribunal are present.

(2) The chairperson shall preside over all the meetings of the Tribunal and in the absence of the chairperson the members shall elect one member from amongst themselves to chair the Tribunal.

Jurisdiction to hear appeals.

**40H.** The Tribunal shall consider all appeals made against a decision of the Council to withhold, nullify or cancel examinations prepared and administered by the Council.

Secretariat of the Tribunal.

**40I.** (1) The Cabinet Secretary shall designate a public officer serving in the Ministry responsible for matters relating to education to be the secretary to the Tribunal.

(2) The Cabinet Secretary may, in consultation with the secretary, designate such other public officers as may be necessary to assist the Tribunal in the discharge its functions under this Act.

Appeals from decisions of the Council.

**40J.** (1) A person who is aggrieved by a decision of the Council to withhold or cancel the results of a candidate may lodge an appeal to the Tribunal in the prescribed form.

(2) An institution that is aggrieved by the decision of the Council to withhold or cancel the results of the candidates in that institution may lodge an appeal to the tribunal in the prescribed form.

(3) Notwithstanding the provisions of subsection (1), a person aggrieved by a decision of the Council may appeal to the Tribunal through the County Director of Education in the County in which the applicant is resident.

(4) The County Director of Education shall transmit to the Tribunal any applications received under subsection (3) within five days of receipt.

(4) Where the person aggrieved by the decision of the Council is a minor, the application under subsection (1) shall be made by the parent or guardian of the minor.



(5) An appeal under subsection (1) shall be—

(a) in writing; and

(b) lodged with the Tribunal within a period of fourteen days from the date of the decision of the Council.

(6) The parties to an appeal lodged under subsection (1) may appear before the Tribunal in person or be represented by an advocate or any other person whom the Tribunal may permit to be heard on behalf of such party.

Procedure of  
the Tribunal.

**40K.** (1) The Tribunal shall transmit a copy of the application made under section 40J and any other supporting documents to the Council within seven days of receipt of the application.

(2) In any proceedings under this Part, the Tribunal shall act without undue regard to technicalities and shall not be strictly bound by the rules of evidence.

(3) The Tribunal shall—

(a) within thirty days from the date of receipt of the application determine an appeal relating to examination results in respect of national examinations conducted at primary school level; and

(b) within sixty days from the date of receipt of the application determine an appeal relating to examination results in respect of national examinations conducted at secondary school level.

Powers of the  
Tribunal.

**40L.** The Tribunal shall have the power to summon witnesses, take evidence on oath or affirmation and order the production of documents.

Decision of  
the tribunal  
on appeal.

**40M.** (1) Upon the hearing of an appeal the Tribunal may—

(a) confirm, set aside or vary a decision of the Council; or

(b) make such other order that it may consider appropriate.

(2) The Tribunal shall communicate its decision to the parties in writing within seven days from the date of the decision.

Enforcement  
of orders for  
costs.

**40N.**(1) Where the Tribunal awards damages or costs in any matter before it, it shall, on application by the person in whose favour the damage or costs are awarded, issue to him a certificate stating the amount of the damages or costs.

(2) A certificate issued under subsection (1) may be filed in the High Court by the person in whose favour the damages or costs have been awarded and upon being so filed, shall be deemed to be a decree of the High Court and may be executed as such.

Appeals to the  
High Court.

**40O.** A party to an application to the Tribunal who is dissatisfied with the decision of the Tribunal may appeal to the High Court on any of the following grounds-

- (a) the decision of the Tribunal was contrary to law or to some usage having the force of law;
- (b) the decision failed to determine some material issue of law or usage having the force of law; or
- (c) a substantial error or defect in the procedure provided by or under this Act has produced an error or defect in the decision of the appeal.

Rules and  
procedures of  
the Tribunal.

**40P.** (1) The Tribunal shall make rules, within ninety days of the coming into effect of this Act, for regulating the practice and procedure for the Tribunal.

(2) Notwithstanding the provisions of subsection (1), the Rules regulating the practice and procedure of the Tribunal shall not provide for the payment of any fees by any of the parties to an appeal and prescribe forms and anything required to be prescribed under this Part.

Insertion of  
a new  
section into  
Cap 255A.

**2C.** The principal Act is amended in section 45 by inserting the following new subsection immediately after subsection (4)—

(5) A person aggrieved by the decision of the Council to withhold, nullify or cancel examination results may appeal to the National Examinations Appeals Tribunal.

The House resolved on Wednesday, January 25, 2017 as follows:-

- IV. THAT**, notwithstanding the provisions of Standing Order 97(4), this House orders 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 shall 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.
- V. THAT**, notwithstanding the provisions of Standing Order 97(4), this House orders 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.

# **NOTICE PAPER**

## **Tentative business for**

**Wednesday (Afternoon), May 31, 2017**

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

It is notified that the House Business Committee, at their last meeting, approved the following *tentative* business to appear in the Order Paper for Wednesday (Afternoon), May 31, 2017:-

**A. MOTION – ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

(The Co-Chairperson of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly)

*(Resumption of debate interrupted on Tuesday, May 30, 2017)*

**B. THE COMPANIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 23 OF 2017)**

(The Leader of the Majority Party)

Second Reading

**C. THE PARLIAMENTARY SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 18 OF 2017)**

(The Leader of the Majority Party)

Second Reading

**D. THE CONSTITUTION OF KENYA (AMENDMENT)(NO. 6) BILL (NATIONAL ASSEMBLY BILL NO. 65 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(Resumption of debate interrupted on Wednesday, May 24, 2017- Afternoon Sitting)*

**E. THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2017)**

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

Second Reading

**F. MOTION – ADOPTION OF SESSIONAL PAPER NO. 3 OF 2016 ON THE NATIONAL HOUSING POLICY**

(The Chairperson, Departmental Committee on Transport, Public Works & Housing)

**G. MOTION – ADOPTION OF SESSIONAL PAPER NO. 5 OF 2016 ON NATIONAL CLIMATE CHANGE FRAMEWORK POLICY**

(The Chairperson, Departmental Committee on Environment & Natural Resources)

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Eleventh Parliament

(No. 052)



Fifth Session  
Afternoon Sitting

(497)

**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (FIFTH SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**WEDNESDAY, MAY 31, 2017 AT 2.30 P.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. Statements

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

The Statute Law (Miscellaneous Amendments)(No.2) Bill (National Assembly Bill No. 48 of 2016)

(The Leader of the Majority Party)

**9\*. MOTION – ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

(The Co-Chairperson of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly)

**THAT**, pursuant to Article 50 of the Treaty for the Establishment of the East African Community and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, this House adopts the Report of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly on its *consideration of the nominees for election as Members of the East African Legislative Assembly*, laid on the Table of the House on Wednesday, May 17, 2017.

*(Resumption of debate interrupted on Tuesday, May 30, 2017)*

*(Amendment to be seconded)*

**10\*. THE COMPANIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.**

**23 OF 2017)**

(The Leader of the Majority Party)

Second Reading

(No. 052)

**WEDNESDAY, MAY 31, 2017**

...../11\*.  
(498)

**11\*. THE PARLIAMENTARY SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 18 OF 2017)**

(The Leader of the Majority Party)

Second Reading

**12\*. THE CONSTITUTION OF KENYA (AMENDMENT)(NO. 6) BILL (NATIONAL ASSEMBLY BILL NO. 65 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(Resumption of debate interrupted on Wednesday, May 24, 2017- Afternoon Sitting)*

**13\*. THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2017)**

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

Second Reading

**14\*. MOTION – ADOPTION OF SESSIONAL PAPER NO. 3 OF 2016 ON THE NATIONAL HOUSING POLICY**

(The Chairperson, Departmental Committee on Transport, Public Works & Housing)

**THAT**, this House adopts Sessional Paper No. 3 of 2016 on the National Housing Policy, laid on the Table of the House on November 15, 2016.

**15\*. MOTION – ADOPTION OF SESSIONAL PAPER NO. 5 OF 2016 ON NATIONAL CLIMATE CHANGE FRAMEWORK POLICY**

(The Chairperson, Departmental Committee on Environment & Natural Resources)

**THAT**, this House adopts the National Climate Change Framework Policy Sessional Paper No. 5 of 2016 laid on the Table of the House on Thursday, December 20, 2016.

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**\* Denotes Orders of the Day**

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(No. 052)

WEDNESDAY, MAY 31, 2017

...../Notices  
(499)

## **NOTICES**

### **I. THE REPORT OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON THE ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

Notice is given that the Member for Wundanyi (The Hon. Thomas Mwacheghu), intends to move the following amendment to the Report of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly on its consideration of the nominees for election as Members of the East African Legislative Assembly–

THAT, the motion be amended by inserting the following words immediately after the word “2017” –

“subject to the deletion of recommendations 3, 5, 6 and 7 appearing on pages 16 and 17 of the Report.”

*(The Senate adopted the report on May 25, 2017 without amendments)*

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The House resolved on Wednesday, January 25, 2017 as follows:-

- II. THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by 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 (if the Bill is not sponsored by either of them); 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.
- III. THAT**, notwithstanding the provisions of Standing Order 97(4), this House orders that, each speech in a debate on a **Report of a Committee**, including a Report of a Joint Committee of the Houses of Parliament or any other Report submitted to the House, be limited as follows: -A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, 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 (15) minutes each; and that priority be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that order.
- IV. THAT**, notwithstanding the provisions of Standing Order 97(4), this House orders that each speech in a debate on any **Sessional Paper** shall be limited as follows: -A maximum of sixty (60) minutes, with not more than ten (10) minutes for the Mover in moving and five (5) minutes for any other Member speaking, **including** the Leader of the Majority Party and the Leader of the Minority Party and that five (5) minutes before the expiry of the time, the Mover shall be called upon to reply; and further that priority in speaking shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.

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# **NOTICE PAPER**

## **Tentative business for** **Tuesday, June 06, 2017**

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

It is notified that the House Business Committee, at their last meeting, approved the following *tentative* business to appear in the Order Paper for Tuesday, June 06, 2017:-

**A. THE COMPANIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 23 OF 2017)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Wednesday, May 31, 2017 - Afternoon Sitting)*

**B. THE PARLIAMENTARY SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 18 OF 2017)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Wednesday, May 31, 2017 - Afternoon Sitting)*

**C. THE CONSTITUTION OF KENYA (AMENDMENT)(NO. 6) BILL (NATIONAL ASSEMBLY BILL NO. 65 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Wednesday, May 31, 2017 - Afternoon Sitting)*

**D. THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2017)**

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

Second Reading

*(If not concluded on Wednesday, May 31, 2017 - Afternoon Sitting)*

**E. MOTION – ADOPTION OF SESSIONAL PAPER NO. 3 OF 2016 ON THE NATIONAL HOUSING POLICY**

(The Chairperson, Departmental Committee on Transport, Public Works & Housing)

*(If not concluded on Wednesday, May 31, 2017 - Afternoon Sitting)*

**F. MOTION – ADOPTION OF SESSIONAL PAPER NO. 5 OF 2016 ON NATIONAL CLIMATE CHANGE FRAMEWORK POLICY**

(The Chairperson, Departmental Committee on Environment & Natural Resources)

*(If not concluded on Wednesday, May 31, 2017 - Afternoon Sitting)*

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