



(No. 34)

(362)

REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (SECOND SESSION)
THE NATIONAL ASSEMBLY
ORDERS OF THE DAY
WEDNESDAY, APRIL 25, 2018 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* MOTION – ESTABLISHMENT OF PROGRAMMES AND INTERVENTIONS TO ENCOURAGE UPTAKE OF COUNSELING SERVICES

(The Hon. Rose M. Museo, M.P.)

THAT, aware that there are over 200 classified types of mental disorders, the most common ones being clinical depression, Post-traumatic Stress Disorder (PTSD), bipolar disorder, anxiety disorders, schizophrenia and Attention Deficit Hyperactivity Disorder (ADHD); concerned that Kenya's mental health policy estimates that about twenty five (25) percent of out-patients and about forty (40) percent of in-patients suffer from mental health conditions with the most frequent diagnosis of mental illnesses made in general hospital settings being depression, substance abuse, stress and anxiety disorders; deeply concerned that the current worrying trend of increased domestic violence among Kenyan families has resulted in suicides, deaths, injuries, psychological trauma, orphaned and unstable children; noting that the prevalence of mental disorders may also be attributed to the noted cases of suicide, homicides and violence at household level; further noting that despite the strategies and guidelines that the Government has put in place towards achieving the highest standard of mental health, prevalence of mental disorders remains high, this House **urges** the Government to urgently establish programmes and interventions to encourage uptake of counseling services among individuals, families and communities to mitigate effects of mental disorders.

(Question to be put)

9*. MOTION- ESTABLISHMENT OF CIVIL REGISTRATION CENTRES IN EVERY CONSTITUENCY

(The Hon. Martha Wangari, M.P.)

THAT, aware that every birth in Kenya must be registered by the Department of Civil Registration and documented through a Birth Certificate; further aware that subsequent registration of citizens and acquisition of documentation such as identity cards and passports, school admissions, registration of exams, and access to opportunities such as employment depends and relies on Birth Certificates; deeply concerned that the Department of Civil Registration Services has over time experienced backlogs in the issuance of Birth Certificates as a result of among other factors, inadequate personnel, unwillingness to embrace Information Communication and Technology (ICT), inadequate funding, and inadequate materials used in registration of persons; further deeply concerned that registration services are not easily accessible to majority of Kenyans owing to the few registration centers in place, this House **urges** the Government to consider establishing Civil Registration Centres in every Constituency and ensure full implementation of the Kenya Citizens and Foreign Nationals Management Service Act, 2011.

(Resumption of debate)

(Balance of time - 45 min)

10*. MOTION - CREATION OF WATER COLLECTION AND STORAGE MANAGEMENT SYSTEMS IN THE CITIES AND MAJOR TOWNS IN KENYA

(The Hon. George Kariuki GK, M.P.)

THAT, aware that the Fourth Schedule of the Constitution provides for the protection of the environment and natural resources and in particular water protection, securing sufficient residual water among others by the National Government; further aware that the existence of abundant water during rainy seasons goes to waste uncollected; deeply concerned about the destructive nature of the said excess water on roads, buildings and other infrastructure including loss of lives in the cities and major towns; cognizant of the fact that during dry periods, there is always rationing of water due to low water levels in the reservoirs that serve the cities and major towns; this House **urges** the Government to consider creating water collection and storage management systems in the cities and major towns in Kenya.

11*. MOTION - EXPANSION OF THE SCHOOL FEEDING PROGRAMME TO ALL PUBLIC PRIMARY SCHOOLS

(The Hon. Vincent Kemosi Mogaka, M.P.)

THAT, aware that Article 53(1)(c) of the Constitution guarantees every child the right to basic nutrition, shelter and health; cognizant of the fact that primary school-aged children are at a stage where a child requires nutritional meals

...../11*(cont'd)

for healthy mental and physical development and growth; aware that school feeding programmes have been implemented in Kenya since the 1980's with varying degrees of success, and with heavy reliance on foreign aid and management; noting that the Kenyan Government introduced a Homegrown School Feeding Programme (HGSFP) in 2009, a more sustainable and nationally integrated programme by the national government funded school meals programme through multi-sectoral cooperation; appreciating that the school feeding programme has played an integral part in realizing the country's goal of universal primary education through incentivizing the enrollment and retention of children; further noting that the feeding programme targets food inequality in the most vulnerable areas of Kenya, including school districts in the Arid and Semi-Arid Areas (ASAL) and the informal urban slums of large cities such as Nairobi and Mombasa; this House **urges** the Government to expand the primary school feeding programme to all public primary schools in the Country.

12*. MOTION – ESTABLISHMENT OF SPORTS ACADEMIES IN EVERY CONSTITUENCY

(The Hon. Osotsi Godfrey, M.P.)

THAT, aware of the socio-economic benefits of sports; recognizing that sports can, and does, make great and positive economic, health, and social and cultural impacts on individuals, communities and wider society; further aware that sports can be a major source of employment and foreign exchange earnings in the Kenya with potential to improve the country' economy on a large scale, if it well harnessed; deeply concerned that the standards of sports in Kenya in many disciplines remain low due to among other things, inadequate investment, scouting and nurturing of talent; cognizant that Section 33(4) of the Sports Act, 2013 establishes the Kenya Academy of Sports, and further Section 34(a) of the Act provides that the functions of the Academy shall be to among other things, establish and manage sports training academies; appreciating that Article 6(3) of the Constitution provides that a national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do having regard to the nature of the service, this House **urges** that the Government through the Ministry of Sports, Culture and Arts to establish sports academies in every Constituency.

*** Denotes Orders of the Day**

N O T I C E

The House resolved on Wednesday, March 28, 2018 as follows:-

THAT, notwithstanding the provisions of Standing Order 97(4), each speech in a debate **in respect of the ordinary individual Members' Motions**, shall be limited in the following manner:- A maximum of two (2) hours with not more than fifteen (15) minutes for the Mover and five (5) 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 ten (10) minutes each, and that five (5) minutes before the expiry of the time, the Mover shall be called upon to reply; and that priority in speaking shall 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), April 25, 2018

(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), April 25, 2018:-

A. PROCEDURAL MOTION - ALTERATION OF SITTINGS

(The Leader of the Majority Party)

B. MOTION- REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2017)

(The Leader of the Majority Party)

C. COMMITTEE OF THE WHOLE HOUSE

(i) The Energy Bill (National Assembly Bill No. 48 of 2017)
(The Leader of the Majority Party)

(ii) The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 48 of 2017)
(The Leader of the Majority Party)

D. MOTION - REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION ON THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF COMMERCIAL VEHICLES) REGULATIONS, 2018

(The Chairperson, Committee on Delegated Legislation)

E. THE KENYA COAST GUARD SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2017)

(The Leader of the Majority Party)

Second Reading

**F. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 51 OF 2017)**
(The Leader of the Majority Party)

Second Reading

**G. THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL
ASSEMBLYBILL NO. 1 OF 2018)**
(The Leader of the Majority Party)

Second Reading

**H. THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL
ASSEMBLY
BILL NO. 2 OF 2018)**
(The Leader of the Majority Party)

Second Reading

Twelfth Parliament



Second Session
Afternoon sitting

(No. 35)

(366)

REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (SECOND SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

WEDNESDAY, APRIL 25, 2018 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* PROCEDURAL MOTION- ALTERATION OF SITTINGS
(The Leader of the Majority Party)

THAT, pursuant to the provisions of Standing Order 28(4) (*Calendar of the Assembly*) and notwithstanding the provisions of Standing Order 30(1) (*Hours of meeting*), this House resolves:

- (i) to **stay** its morning sitting of Wednesday, May 2, 2018; and
- (ii) to **hold** morning sittings on Thursday, April 26, 2018; and Thursday, May 3, 2018 commencing at 9.30am.

9* MOTION- REPORT OF THE COMMITTEE OF THE WHOLE HOUSE
ON THE ENERGY BILL (NATIONAL ASSEMBLY BILL
NO. 50 OF 2017)

(The Leader of the Majority Party)

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the Energy Bill (National Assembly Bill No. 50 of 2017).

(No. 35)

WEDNESDAY, APRIL 25, 2018

...../10*
(367)

10* .COMMITTEE OF THE WHOLE HOUSE

- (i) The Energy Bill (National Assembly Bill No. 50 of 2017)
(The Leader of the Majority Party)

(Subject to resolution to recommit Clause 84)

- (ii) The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 48 of 2017)
(The Leader of the Majority Party)

11* .MOTION – REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION ON THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF COMMERCIAL VEHICLES) REGULATIONS, 2018
(The Chairperson, Committee on Delegated Legislation)

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the National Transport & Safety Authority (Operation of Commercial Vehicles) Regulations, 2018, laid on the Table of the House on Tuesday, April 17, 2018, and pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013 and Standing Order 210(4)(b) *annuls in entirety* the said Regulations.

12* .THE KENYA COAST GUARD SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2017)
(The Leader of the Majority Party)

Second Reading

13* . THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 51 OF 2017)
(The Leader of the Majority Party)

Second Reading

14* . THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2018)
(The Leader of the Majority Party)

(No. 35)

WEDNESDAY, APRIL 25, 2018

(367)

**15*. THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY
BILL NO. 2 OF 2018)**

(The Leader of the Majority Party)

Second Reading

*** Denotes Orders of the Day**

(No. 35)

WEDNESDAY, APRIL 25, 2018

(368)

N O T I C E S

I. THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2017)

Notice is given that the Chairperson of the Departmental Committee on Energy intends to move the following amendments to the Energy Bill (National Assembly Bill No. 50 of 2017) at the Committee Stage—

CLAUSE 84

THAT, Clause 84 of the Bill be amended—

(a) in sub-clause (3) by deleting the word “twice” appearing in the proviso;

(b) in sub-clause (4) by deleting the words “concerned based on the extent of the investment in each county”.

II. THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2017)

1) **Notice is given that the Chairperson of the Departmental Committee on Energy intends to move the following amendments to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 48 of 2017) at the Committee Stage—**

LONG TITLE

THAT, the long title of the Bill be amended by inserting the words “regulation of midstream and downstream petroleum” immediately after the words “apply to upstream petroleum operations”.

CLAUSE 1

THAT, clause 1 of the Bill be amended by deleting the words “(Exploration, Development and Production).”

CLAUSE 2

THAT, clause 2 of the Bill be amended—

(a) by inserting the following new definitions in their proper alphabetical sequence—

“adulterated petroleum” means any mixed refined petroleum products that alter product specifications detailed in the applicable Kenya Standards;

“agent” means a person appointed in writing by the Authority to perform any of its functions;

“building” has the meaning assigned to it under the relevant written law;

“consumer” means any person who is supplied or entitled to be supplied with petroleum;

“danger” means risk to the environment, health, life, person or property of anyone from shock, fire or otherwise arising from the exploration, production, importation, exportation, transportation, refining, storage and sale of petroleum;

“factory” has the meaning assigned to it under the Occupational Safety and Health Act;
No 15 of 2007.

(No. 35) WEDNESDAY, APRIL 25, 2018

(369)

“Kenya Standard” means a specification or code of practice declared by the Council under the Standards Act. Cap. 496.

“licence” means any document or instrument in writing granted under this Act, to any person authorizing the importation, exportation, refining, storage and sale of petroleum;

“licensee” means a holder of any licence issued under this Act;

“licensing authority” means any person or body, including the Authority, with powers to grant, revoke or suspend a licence under this Act;

“liquefied petroleum gas” means commercial propane, commercial butane, commercial pentane and mixture thereof as specified in the relevant Kenya standard;

“minimum operational stocks” means the amounts of petroleum prescribed by the Cabinet Secretary on the recommendation of the Authority under section 99U;

“open access” means the non-discriminatory provision for the use of common user petroleum logistics facility by any licensee or consumer;

“open tendering system” means the mode of procurement of petroleum products in Kenya whereby the lowest bidder on any given product is allowed to import on behalf of all the other oil marketing companies;

“person” means any natural or juridical person;

“petroleum business” means a concern carrying on the importation, exportation, refining, storage, transportation, supply or sale of petroleum;

“refine” means to process petroleum crude in a refinery in order to yield petroleum products;

“refined petroleum products” means the products yielded from the refining of petroleum;

“refinery” means a distillation plant for refining of petroleum crude to yield petroleum products;

“retail dispensing site” means premises where petroleum is stored in bulk in one or more tanks and dispensed to consumers for their own use and includes filling and service stations;

“retail” means—

- (a) selling or offering to sell petroleum to a consumer;

- (b) acting as agent or broker for a retailer with respect to the sale or offering for sale of petroleum; or

(No. 35)

WEDNESDAY, APRIL 25, 2018

(370)

- (c) acting or offering to act as an agent or broker for a consumer with respect to the sale or offering for sale of petroleum;

“retail supply licence” means any document or instrument authorizing a person to supply petroleum in the manner described in such document or instrument to any premises and such licence shall also entitle the licensee to receive a bulk supply from another licensee;

“social impact assessment” means a method of analysing the impacts of a proposed activity, project or plan on the social aspects of the environment which include, without limitation, the way —

- (a) people cope with life through their economy, social systems, and cultural values;
- (b) people use the natural environment, for subsistence, recreation, spiritual activities and cultural activities;
- (c) people use the built environment for shelter, making livelihoods, industry, worship, recreation and gathering together;
- (d) communities are organised and held together by their social and cultural institutions and beliefs; and
- (e) of life that communities value as expressions of their identity;

“specification” has the meaning assigned to it in the Standards Act;

“storage depot” means premises consisting one or more tanks for storing petroleum;

“strategic environmental assessment” means a formal and systematic process to analyse and address the environmental effect of policies, plans and programmes and other strategic initiatives;

“strategic stocks” means petroleum kept for purposes of ensuring security of supply;

“street” includes any way, road, lane, square, court, alley, passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge, or causeway;

“undertaking” means any business undertaken pursuant to a licence or a permit and includes all the assets and liabilities from time to time constituting or belonging or appertaining to such business, whether public or private, for the importation, exportation, refining, transportation, storage or supply of petroleum but does not include an undertaking which the Authority in consultation with the Cabinet Secretary, by statutory instrument, declares not to constitute an undertaking for the purposes of this Act;

(No. 35)

WEDNESDAY, APRIL 25, 2018

(371)

“vandalise” means to commit any wilful, negligent, reckless or malicious act which destroys or damages petroleum infrastructure.

“works” means pipelines, machinery, lands, buildings, structures, earth works and water works, and includes any apparatus or things of whatsoever description, required for the importation, exportation, storage, refining, transportation, dispensing and supply of petroleum.

(b) by deleting the definition of the term Authority and substituting therefor the following new definition—

“Authority” means the Energy Regulatory Commission established under section 4 of the Energy Act, 2006.

CLAUSE 3

THAT, clause 3 of the Bill be amended—

- (a) by inserting the words “midstream and downstream” immediately after the words “all upstream” appearing in sub-clause (1);
- (b) by deleting sub-clause (2).

CLAUSE 4

THAT, clause 4 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “midstream and downstream” immediately after the word “upstream”;
- (b) in sub-clause (2) by inserting the words “midstream and downstream” immediately after the word “upstream”.

PART II

THAT, the heading of Part II of the Bill be amended by deleting the word “UPSTREAM”.

CLAUSE 5

THAT, clause 5 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “upstream”;
- (b) in sub-clause (2) by deleting the word “upstream”;
- (c) in sub-clause (3) by deleting the word “upstream”;

(d) in the marginal note by deleting the word “upstream”.

CLAUSE 6

THAT, clause 6 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “upstream”;

(b) in sub-clause (2) by deleting the word “upstream” wherever it appears;

(No. 35)

WEDNESDAY, APRIL 25, 2018

(372)

(c) in sub-clause (3) by deleting the word “upstream”;

(d) in the marginal note by deleting the word “upstream”.

CLAUSE 7

THAT, clause 7 of the Bill be amended—

(a) by deleting the word “upstream”;

(b) in the marginal note by deleting the word “upstream”.

CLAUSE 8

THAT, clause 8 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “upstream”;

(b) in the marginal note by deleting the word “upstream”.

CLAUSE 9

THAT, clause 9 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “upstream” wherever it appears;

(b) in sub-clause (2) by deleting the word “upstream”;

(c) in sub-clause (3) by deleting the word “upstream”;

(d) in the marginal note by deleting the word “upstream”.

CLAUSE 14

THAT, the Bill be amended by deleting clause 14.

CLAUSE 15

THAT, the Bill be amended by deleting clause 15.

CLAUSE 16

THAT, the Bill be amended by deleting clause 16.

CLAUSE 17

THAT, the Bill be amended by deleting clause 17.

CLAUSE 18

THAT, the Bill be amended by deleting clause 18.

CLAUSE 19

THAT, the Bill be amended by deleting clause 19.

(No. 35)

WEDNESDAY, APRIL 25, 2018

(373)

CLAUSE 20

THAT, the Bill be amended by deleting clause 20.

CLAUSE 21

THAT, the Bill be amended by deleting clause 21.

CLAUSE 22

THAT, the Bill be amended by deleting clause 22.

CLAUSE 23

THAT, the Bill be amended by deleting clause 23.

CLAUSE 24

THAT, the Bill be amended by deleting clause 24.

CLAUSE 25

THAT, the Bill be amended by deleting clause 25.

CLAUSE 26

THAT, the Bill be amended by deleting clause 26.

CLAUSE 27

THAT, the Bill be amended by deleting clause 27.

CLAUSE 28

THAT, the Bill be amended by deleting clause 28.

CLAUSE 29

THAT, the Bill be amended by deleting clause 29.

CLAUSE 30

THAT, the Bill be amended by deleting clause 30.

CLAUSE 31

THAT, the Bill be amended by deleting clause 31.

CLAUSE 32

THAT, the Bill be amended by deleting clause 32.

(No. 35)

WEDNESDAY, APRIL 25, 2018

(374)

CLAUSE 33

THAT, the Bill be amended by deleting clause 33.

CLAUSE 34

THAT, the Bill be amended by deleting clause 34.

CLAUSE 35

THAT, the Bill be amended by deleting clause 35.

CLAUSE 36

THAT, the Bill be amended by deleting clause 36.

CLAUSE 37

THAT, the Bill be amended by deleting clause 37.

CLAUSE 38

THAT the Bill be amended by deleting clause 38.

CLAUSE 39

THAT the Bill be amended by deleting clause 39.

CLAUSE 40

THAT, the Bill be amended by deleting clause 40.

CLAUSE 42

THAT, clause 42 of the Bill be amended in sub-clause (1) by inserting the words "after consultation with the Advisory Committee" immediately after the words "the Cabinet Secretary may".

CLAUSE 48

THAT, clause 48 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) —

(3) The public shall be informed of the changes of an operator by way of a *Gazette* notice, a newspaper of nationwide circulation and a radio of local coverage in the area in which the operations are being undertaken.

CLAUSE 51

THAT, clause 51 of the Bill be amended in sub-clause (9)(a)(ii) by inserting the words “of at least twenty-one working days” immediately after the words “sufficient notice”.

(No. 35)

WEDNESDAY, APRIL 25, 2018

(375)

CLAUSE 67

THAT, clause 67 of the Bill be amended in sub-clause (8) by inserting the words “County Government” immediately after the words “National Government”.

CLAUSE 77

THAT, clause 77 of the Bill be amended—

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

(1) A person carrying out any undertaking or works under this Act shall —

(b) in sub-clause (1) by deleting the words “of the contractor’s or sub-contractor’s” appearing in paragraph (a);

(c) in sub-clause (2) by deleting the word “upstream”;

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

(i) consultancy services;

(j) construction services;

(k) hospitality services;

(l) transport services;

(m) security services;

(n) clearing and forwarding services;

(o) Inspection services;

(p) other goods, works and services as may be prescribed in the regulations.

(e) in sub-clause (4) by deleting the word “upstream”.

CLAUSE 85

THAT, clause 85 of the Bill be amended in sub-clause (3) by deleting the words “five percent of the Government’s share” appearing immediately after the words “equivalent to” and substituting therefor the words “ten percent of the national government’s share”.

CLAUSE 87

THAT, clause 87 of the Bill be amended in sub-clause (4) by deleting the words “and any other relevant National Government entity” and substituting therefor the words “and any other relevant entity”.

CLAUSE 95

THAT, clause 95 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) —

(4) As far as is practicable, the contractor shall involve the Authority, National Environment Management Agency, the Council of Governors and the relevant local communities in the preparation of emergency preparedness measures.

(No. 35)

WEDNESDAY, APRIL 25, 2018

(376)

CLAUSE 96

THAT, clause 96 of the Bill be amended —

(a) by inserting the words “County Governments” immediately after the words “National Disaster Operations Centre” in sub-clause (2);

(b) by inserting the following new sub-clause (4) immediately after sub-clause (3) —

(4) The disaster preparedness, prevention and management unit shall in liaison with the contractor carry out public awareness and sensitization forums for local communities resident in areas surrounding on going Upstream Operations.

INSERTION OF A NEW PART

THAT, the Bill be amended by inserting the following new Part immediately after Part VIII—

PART VIIIA

MIDSTREAM AND DOWNSTREAM PETROLEUM

Licensing

Granting of licences.

99A. (1) A person may make an application for a licence, permit or certificate to the licensing authority in the manner prescribed by this Act or the licensing authority.

(2) The licensing authority may, within thirty days of receiving the application—

- (a) grant a licence, permit or certificate accordingly, either without conditions or subject to such conditions as the licensing authority may deem fit and shall be accompanied by the prescribed fee; or
- (b) reject an application for grant of such licence, permit or certificate.

(3) Where the licensing authority rejects an application for the grant of a licence, permit or certificate, the licensing authority shall give to the applicant reasons for the refusal in writing within seven days of such refusal.

(No. 35) WEDNESDAY, APRIL 25, 2018 (378)

Requirements of licence
for petroleum business.

99B. (1) A person who wishes to—

- (a) undertake refining, importation, export, bulk storage or transportation of petroleum crude or products must have a valid licence issued by the Authority ;
- (b) sell petroleum in bulk to another person for the purpose of export or for retail sale in Kenya must have a valid licence issued by the Authority ;
- (c) use a vehicle for the purpose of transporting petroleum in bulk shall have a valid petroleum permit in respect of that vehicle issued by the Authority; and
- (d) drive a vehicle, or engage a driver, for the purpose of transporting petroleum in bulk by tanker shall ensure that such driver is certified for that purpose by the Authority.

(2) A person who wishes to carry out the supply of petroleum products by means of a retail dispensing station, or of gas through a centralised reticulation system, must have a licence issued by the County Government:

Provided that any retail dispensing station or gas reticulation system complies with section 99N on construction permits and are operated in accordance with National guidelines published by Authority.

(3) A person who contravenes this section commits an offence and shall on conviction, be liable to a fine of not less than—

- (a) ten million shillings, or to imprisonment for a term of not less than three years, or to both such fine and imprisonment if the contravention relates to sub-section (1) (a);
- (b) one million shillings, or to imprisonment for a term of not less than three years, or to both such fine and imprisonment if the contravention relates to sub-sections (1) (b) and (c) as well as (2); and
- (c) two hundred and fifty thousand shillings, or to imprisonment for a term of not less than three years, or to both such fine and imprisonment if the contravention relates to sub-section (1) (d).

Factors to be considered
in reviewing an
application

99C. The licensing authority shall, in granting or rejecting an application for a licence or permit, take into consideration—

- (a) the impact of the undertaking on the social, cultural or recreational life of the community;

(No. 35) WEDNESDAY, APRIL 25, 2018 (379)

No. 15 of 2007

- (b) the need to protect the environment and to conserve the natural resources in accordance with the environmental laws, maritime laws and international maritime treaties ratified by Kenya and other guidelines developed by the Authority ;
- (c) the Occupational Safety and Health Act or other safety and health standards recommended by the Authority in consultation with the relevant statutory body;
- (d) compliance with this Act and the relevant Kenyan Standard and in the absence of such standard, any international standard recommended by the Authority in consultation with the Kenya Bureau of Standards;
- (e) land use or the location of the undertaking;
- (f) economic and financial benefits to the country or area of supply of the undertaking;
- (g) the cost of the undertaking and financing arrangements;
- (h) the ability of the applicant to operate in a manner designed to protect the health and safety of users of the service for which the licence or permit is required and other members of the public who would be affected by the undertaking;
- (i) the technical and financial capacity of the applicant to render the service for which the licence or permit is required;

(j) where applicable the proposed tariff offered; and

(a) any other matter that the licensing authority may consider likely to have a bearing on the undertaking.

Forms and conditions of a licence or permit.

99D. (1) A licence or permit shall be in such form as the licensing authority may determine and shall, subject to subsection (2), contain such particulars or conditions where applicable—

(a) the provisions for tariffs or charges for the pipeline transport, common user import handling facilities or jetties and storage;

(b) the duration of the licence or permit;

(c) the maximum capacity, whether of import handling, storage, or transport;

(d) the market area segments; and

(No. 35) WEDNESDAY, APRIL 25, 2018(380)

(e) any other matter connected with the carrying on of the undertaking

(2) A licence or permit issued by the licensing authority shall set out—

(a) a requirement that the licensee shall comply with all applicable environmental, health and safety laws;

(b) a stipulation that the licensee is subject to liability under tort and the contract laws; and

(c) a requirement that all necessary fees associated with the licence or permit shall be paid on a timely basis.

(3) A licence or permit issued under this Act may not be altered, revised or modified, except with the consent of the licensee.

Renewal of Licences

99E. (1) An application for renewal of a licence, permit or certificate shall be made at least thirty days before the expiry date of the existing licence, permit or certificate and shall be accompanied by the prescribed fee.

(2) If the licensing authority is satisfied that the applicant continues to meet the requirements of the licence, permit or certificate, the licensing authority shall renew the licence, permit or certificate.

(3) Where an application for renewal of a licence, permit or certificate has been made before the expiry of the licence, permit or certificate but has not been approved or rejected by the licensing authority when the licence, permit or certificate is due to expire, the licence, permit or certificate continues in force until the application for renewal is dealt with and any renewal in such a case shall be taken to have commenced from the day when the licence, permit or certificate would have expired before the renewal.

(4) A licence or permit shall specify the nature of petroleum business and the premises at which the licensee may conduct his business and where a petroleum business is conducted at more than one premise, a separate licence or permit shall be required for each of such premises.

(5) A person who conducts petroleum business at more than one premise, without obtaining a separate licence or permit for each of such premises, shall be liable to a penalty equivalent to twenty per cent of the licence, permit or certificate fee to be imposed by the Authority.

(No. 35) WEDNESDAY, APRIL 25, 2018 (381)

Amendment of
licence, permit or
certificate.

99F. (1) A person may make an application for amendment of a licence, permit or certificate.

(2) An application under subsection (1) shall be in the prescribed manner and be accompanied by the prescribed fee.

(3) The licensing authority may amend the licence, permit or certificate and endorse it accordingly.

(4) Where an application to amend a licence, permit or certificate is rejected, the licensing authority shall notify the applicant of the reasons in writing.

(5) A licence, permit or certificate amended under this section shall retain the existing expiry date.

(6) An applicant dissatisfied with the decision of the Cabinet Secretary under subsection (2), may appeal to the Tribunal within thirty days of the receipt of such decision.

Environment
liability policy.

99G. An application for a licence shall be accompanied by an environmental liability policy as may be prescribed by the Authority.

Display of licences
and permits.

99H. (1) A licensee or permit holder shall cause to be displayed with the premises, the licence or permit, or a certified copy.

(2) A licensee or permit holder who contravenes sub-section (1) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings.

Revocation of licence or permit.

99I. (1) The licensing authority may suspend or revoke a licence or permit where—

- (a) the undertaking or the execution of the works related thereto has not commenced at the expiry of the period specified in the licence or permit, or at the expiry of any extended period which the Authority may allow;
- (b) it is satisfied that the licensee is either not operating in accordance with the terms and conditions of the licence, permit or the provisions of this Act; or
- (c) the licensee is adjudged bankrupt.

(2) Unless otherwise specified in the licence or permit, the licensing authority may give a licensee fourteen days' notice to show cause why the licence or permit should not be revoked.

(3) A notice under subsection (2) shall—

(No. 35) WEDNESDAY, APRIL 25, 2018 (382)

- (a) set out the relevant condition of the licence or permit or the requirement of the Act to which the breach relates;
- (b) specify the acts, omissions or other facts which, in the opinion of the Authority or the licensing authority, constitute a contravention of the conditions of the licence or permit or requirements of the Act, and the reasons why the licensing authority is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and
- (c) be served upon the licensee at the licensee's principal place of business and shall take effect from the date of service.

(4) The licensing authority shall determine the matter within thirty days from the expiry of the notice.

(5) A suspension or revocation of a licence or permit shall not indemnify the licensee against any penalties for which such person may have become liable under the Act.

Replacement of a licence, permit or certificate.

99J.(1) A licensee or permit holder may apply for replacement of a licence, permit or certificate.

(2) A licensee or permit holder may apply for replacement of a licence, permit or certificate where it is lost, destroyed or defaced.

(3) The licensing authority shall, upon payment of the prescribed fee, issue a duplicate licence, permit or certificate to the licensee.

Transfer of a licence or permit.

99K. (1) A licensee shall not transfer or otherwise divest any rights, powers or obligations conferred or imposed upon the licensee by the licence or permit without the consent of the licensing authority.

(2) The licensing authority may, on application by any of the following persons, transfer a licence or permit—

- (a) in the case of a death of the licensee, to the legal representative;
- (b) in the case of the bankruptcy of the licensee or assignment for the benefit of the licensee's creditors generally, to the lawfully appointed trustee or assignee;
- (c) in the case of a corporation in liquidation, to the lawfully appointed liquidator;

(No. 35) WEDNESDAY, APRIL 25, 2018 (383)

(d) in any case where the licensee becomes subject to a legal disability, to any person lawfully appointed to administer the licensee's affairs; or

(e) in the case of voluntary transfer of the undertaking, to the new owner of the undertaking.

(3) The licensing authority shall satisfy itself of the legal, technical and financial competence of the transferee to carry out the undertaking.

(4) The transferee shall undertake in writing to comply with the conditions of the licence or permit.

(5) The licensing authority shall not withhold any consent to any application to transfer unless it has reason to believe that public interest is likely to be prejudiced by the transfer.

Register of licences and permits.

99L. (1) The licensing authority shall keep a register, in such form as it may determine, of all licenses and permits granted and shall record therein, in respect of each licence or permit—

- (a) the particulars required under sections 99B and 99O;
- (b) particulars of any duplicate issued or any amendment of the licence or permit made under sections 99F and 99J;
- (c) particulars of any suspension or revocation of the licence or permit under sections 99I and 99Q; and
- (d) such other particulars as may be prescribed.

(2) Subject to subsection (3), any person may, during official working hours, and upon payment of the prescribed fee, inspect the register of licences and permits.

(3) Notwithstanding subsection (2), a person who is—

(a) a member of the Kenya Police Service or a public officer acting in the course of his duty; or

(b) an employee of the licensing authority or person authorised in writing by the Authority.

may inspect the register without payment of any fee.

(No. 35) WEDNESDAY, APRIL 25, 2018

(384)

Appeal against
action of a
licensing authority.

99M. A person aggrieved by the action of the licensing authority in—

(a) refusing to grant or renew a licence, permit or certificate or revoking a licence, permit or certificate; or

(b) imposing conditions on a licence, permit or certificate; or

(c) refusing to replace or amend a licence, permit or certificate,

may, within thirty days of receipt of written notification, appeal to the Tribunal.

Construction permits.

99N. (1) A person who intends to construct a pipeline, refinery, bulk storage facility, retail dispensing site, centralized gas reticulation system or designated parking place for petroleum tankers shall, before commencing such construction, apply in writing to the licensing authority for a permit to do so.

(2) An application under subsection (1) shall—

(a) specify the name and address of the proposed owner;

(b) be accompanied by the registration documents of the proposed beneficial owner;

(c) be accompanied by a copy of detailed layout plans and specifications prepared by a professional engineer;

(d) in the case of a pipeline—

(i) specify the points, between which the proposed pipeline is to run;

(ii) state what products are to be transported by the proposed pipeline.

- (e) in the case of a refinery, bulk liquefied petroleum gas, or natural gas facility specify the location, type and capacity;
- (f) be accompanied by an environment and social impact assessment licence; and
- (g) contain such other details as may be necessary.

(No. 35) WEDNESDAY, APRIL 25, 2018 (385)

(3) The licensing authority shall consider every application received under this section and shall, if satisfied that the applicant meets the prescribed requirements, grant to the applicant, within forty five days, the permit to construct a pipeline, refinery, bulk storage facility, bulk liquefied petroleum gas facility, natural gas facility, retail dispensing site, centralised gas reticulation system or designated parking, as the case may be.

(4) A permit shall be subject to such conditions as maybe prescribed.

(5) Where the licensing authority refuses to grant a permit under this section, it shall notify the applicant of such refusal specifying the reasons thereof and shall deliver such notice to the applicant.

Conditions for granting permits.

99O. (1) The licensing authority shall, before issuing a permit under section 99B take into account all relevant factors, including but not limited to—

- (a) the relevant Government policies and guidelines;
- (b) compliance with the relevant environmental, safety, planning, and maritime laws, County Government laws;
- (c) the relevant Kenya Standard or in the absence of such standard, any other standard recommended by the licensing authority in consultation with the Kenya Bureau of Standards;
- (d) the technical and financial capability of the applicant and methods of financing the proposed pipeline, refinery, bulk storage facility, or retail dispensing site; and
- (e) any other matter which, in the opinion of the licensing authority, may be affected by the granting or the refusal of the permit being sought.

(2) A permit shall contain such terms and conditions as the licensing authority may consider appropriate, including but not limited to the—

- (a) duration of the permit;
- (b) person authorised to execute the works;

(c) area in which the works shall be executed; and

(d) conditions to be satisfied before any works authorised by the permit are used, which may include a requirement for the execution of further works.

(No. 35)

WEDNESDAY, APRIL 25, 2018

(386)

(3) Where a permit contains conditions prescribed in subsection (2) (d), no person shall, before the conditions are satisfied, use any works the execution of which was authorised by the permit, except to the extent specified in a notice given by the licensing authority to the licensee specifying the extent to which the works may be used, notwithstanding that some of the conditions have not been satisfied and such permit may, at any time, be revoked by the licensing authority in a subsequent notice in the *Gazette*.

(4) A notice given by the licensing authority under subsection (3) shall be conclusive evidence for the purposes of this Act that those conditions have been satisfied.

(5) Where a permit referred to in subsection (3) is cancelled or otherwise ceases to be in force prior to the completion of the authorised works, the licensee shall, to the extent of partially executed works, be deemed to have satisfied the prescribed conditions.

Exemption from the requirement for a permit.

99P. Notwithstanding any other provision of this Act—

(a) emergency works for the construction of a pipeline, may be executed without any authorisation by the licensing authority:

Provided that as soon as is reasonably practicable and in any event not later than sixty days after the works have commenced or have been executed, the owner of the petroleum logistics facility shall inform the licensing authority in writing of the works executed attaching copies of detailed construction drawings of such construction works and the route taken or intended to be taken by the petroleum logistic facility;

(b) no permit shall be required for the construction of a pipeline within a storage depot, a pipeline facility or refinery.

Suspension or revocation of a construction permit.

99Q. (1) Subject to subsection (2), the licensing authority may, by notice in the *Gazette*, suspend or revoke a construction permit if any term or condition thereof has not been complied with within the prescribed period.

(2) Where the licensing authority intends to revoke or suspend a permit under this section, it may, at least twenty-one days before the date of the intended revocation or suspension, notify the holder of the permit of such intention, specifying the reasons thereof, and shall take every precaution to ensure fairness in the exercise of this power.

(3) The licensing authority may in writing, reinstate a permit revoked or suspended under subsection (1) if satisfied that the reasons for the revocation or suspension no longer exist.

(No. 35) WEDNESDAY, APRIL 25, 2018 (387)

Validity of permits.

99R. If, after a permit to construct a pipeline, a refinery, a bulk storage facility or a retail dispensing site has been granted, the execution of the works has not commenced at the expiry of twelve months from the date on which the permit was granted, or at the expiration of any extended period which the licensing authority may allow, the permit shall cease to have effect.

Destruction of illegal construction.

99S.(1) Where a person has constructed a pipeline, refinery, bulk storage facility, retail dispensing site or a centralized gas reticulation system without a permit, the licensing authority may-

(a) give that person a notice of twenty one days to obtain the permit;

(b) direct that person to stop the construction; or

(c) direct that person to decommission the pipeline, refinery, bulk storage facility, retail dispensing site or a centralized gas reticulation system.

(2) If the owner or occupier of the facility in sub section (1) fails to remove the works, the licensing authority shall decommission the works at the cost of that person.

(3). Notwithstanding subsection (1), any person who constructs a pipeline, refinery, bulk storage facility, retail dispensing site or a centralized gas reticulation system without a permit is liable on conviction to a fine of not less than one million shillings.

Standards for petroleum.

99T.(1) A person who offers for sale in Kenya or transports or stores petroleum meant for use in Kenya shall ensure that the specifications of such petroleum conforms to the relevant Kenya Standard, but where no such standard exists, the relevant international standards approved by the Kenya Bureau of Standards:

Provided that no person shall divert to sell in Kenya, goods destined for other markets.

(2) A person who—

- (a) sells or offers for sale petroleum not conforming to the relevant Kenya Standard or any other standard approved by the Kenya Bureau of Standards; or
- (b) stores, transports, or sells or offers for sale adulterated petroleum,

commits an offence and shall on conviction, be liable to a fine of not less than five million shillings, or to a term of imprisonment of not less than two years, or to both.

(No. 35) WEDNESDAY, APRIL 25, 2018 (388)

(3) A person who diverts with intent to sell in Kenya petroleum destined for other markets commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings, or to a term of imprisonment of not less than five years, or to both.

Maintenance of minimum operational stocks.

99U. It shall be the duty of a person licensed to import petroleum to maintain such quantities of petroleum and at such locations as may be prescribed by the Cabinet Secretary on the recommendation of the Authority.

Contracts for common user facilities.

99V.(1) A person licensed to operate a common user facility shall provide non-discriminatory open access to its facility for use by any licensee or person on payment of fair and reasonable charges as shall be prescribed in regulations made under this Act.

(2) A licensee shall promptly evacuate its petroleum products held by a common user logistic facility in accordance with this Act.

(3) Where any licensee wilfully delays to comply with the terms of the contract pursuant to sub-section (1), the Authority may compel the licensee to evacuate the petroleum products when appropriate and in the event of the licensee failing to comply with such direction the Authority may order disposal of such products held by a common user logistic facility and impose such penalties and fines as may be prescribed in regulations.

Forms of contract for common user facilities.

99W.(1) Every person licensed to operate a common user facility shall use a form of contract approved by the Authority which shall set out the rights and responsibilities of the licensee and users of the facility, as the case may be.

(2) In approving a form of contract under subsection (1), the Authority shall satisfy itself that such form of contract has fair and reasonable provisions dealing with issues, including but not limited to—

- (a) limitation of liability of the licensee;
- (b) termination and suspension provisions;
- (c) account and meter deposits;
- (d) metering; and

(e) complaint handling and dispute resolution.

Power of the
Cabinet Secretary
to provide
strategic
petroleum stocks.

99X. The Cabinet Secretary may undertake in whole or in part, the provision of financing, procurement, storage, maintenance and management of petroleum strategic stocks.

(No. 35) WEDNESDAY, APRIL 25, 2018

(389)

Compliance with
environmental,
health and safety
laws.

99Y.(1) A person engaged in petroleum business shall comply with the applicable environmental, health and safety laws.

(2) In the event of a fire, explosion, oil spill, injury or fatality occurring in the course of operating a petroleum logistics facility, transportation or sale of petroleum, either by accident or through negligence, the operator or person transporting or selling the petroleum shall forthwith clean up the polluted or damaged environment, at the operator's own expense, to the satisfaction of the licensing authority and any other relevant authority:

Provided that any person engaged in the storage, transportation or sale of petroleum and petroleum products shall have an oil clean-up plan in compliance with the National Oil Spill Policy, relevant environmental health and safety regulations or guidelines.

(3) If the operator or person transporting or selling petroleum fails, or unreasonably delays, to carry out the work referred to in subsection (2), the licensing authority may cause any work not carried out to be executed at the expense of the said operator or person transporting or selling the petroleum.

(4) Nothing contained in this section shall be construed as relieving the operator or person transporting petroleum from any liability in respect of any loss or damage caused by his failure to comply with safety measures as required in subsection (5).

(5) A person transporting petroleum by road, rail, coastal or inland waters, pipeline or any other mode shall institute measures to ensure that their mode of transportation is safe.

(6) The licensing authority may, at any time, require the operator of a facility or a transporter to show that he is in compliance with the provisions of this section.

Designated parking for
petroleum tankers.

99Z.(1) It shall be the duty of every County Government to designate or provide a place or places exclusively reserved for parking of petroleum tankers.

(2) A person who is in charge of or in control of any petroleum tanker and parks it outside a designated parking area for petroleum tankers commits an offence and shall on conviction, be liable to a fine not exceeding one hundred thousand shillings or to a term of imprisonment of six months or to both.

99AA.(1) A person who—

(No. 35)

WEDNESDAY, APRIL 25, 2018

(390)

- (a) contravenes any provisions of section 99U on maintenance of minimum operational stock of petroleum;
- (b) being the owner or operator of a refinery, pipeline, bulk liquefied petroleum gas or natural gas facility, service station, filling station or storage depot or transporter of petroleum, fails to institute appropriate environmental, health or safety control measures;
- (c) being the owner of a pipeline, refinery or bulk liquefied petroleum gas or natural gas facility, contravenes the provisions of this Act or any regulations made thereunder relating to the construction or operation of a pipeline, refinery or bulk liquefied petroleum gas or natural gas facility or regulations thereof;
- (d) vandalises, destroys, or interferes in any manner or illegally interconnects with such pipeline;
- (e) illegally acquires, handles or is in possession of any petroleum products;
- (f) maliciously misinforms the public leading to economic sabotage;
- (g) who not being an owner of any petroleum pipeline plant equipment or auxiliaries illegally acquires, handles or is in possession of any petroleum pipeline plant, equipment auxiliaries;
- (h) who trespasses or encroaches on to any petroleum pipeline wayleaves or installations;
- (i) who illegally acquires any interest in public land set aside for petroleum infrastructure projects;
- (j) being the owner of a retail dispensing site or storage depot, contravenes the provisions of this Act relating to the construction or operation of a retail dispensing or site storage depot;
- (k) being the owner or operator of a bulk storage facility for petroleum products, service station or storage depot, or being the owner of any petroleum stocks, hoards petroleum products;
- (l) owns or operates an unlicensed petroleum or gas storage, filling or handling facility;
- (m) refills, rebrands, trades or otherwise deals with liquefied petroleum gas cylinders of another licensee for gain without the said licensee's prior written consent;

- (n) being the owner of a retail dispensing site, under dispenses or sells above any price that may be recommended by licensing authority Cabinet Secretary from time to time;
- (o) constructs any facility defined in section 99N without obtaining a construction permit;
- (p) is in charge or in control of a petroleum tanker transporting or carrying adulterated petroleum or discharges export petroleum in the country;
- (q) owns a petroleum tanker transporting or carrying adulterated petroleum;

commits an offence and shall on conviction, be liable to a fine of not less than:

- (i) one million shillings, or a term of imprisonment of not less than one year, or to both such fine and imprisonment; if the offence relates to paragraphs (a), (h), (k) and (p) or
- (ii) ten million shillings, or a term of imprisonment of not less than five years, or to such fine and imprisonment, if the offence relates to paragraphs (b), (c), (d) (e), (f), (g), (i), (j), (l), (m), (n), (o) and (q).

(2) A person who attempts to do any such thing as mentioned in subsection (1) commits an offence and shall on conviction, be liable to a fine of not less than—

- (a) five hundred thousand shillings or a term of imprisonment of not less than six months or to both such fine and imprisonment if the offence relates to sub-section (1) (h); and
- (b) five million shillings or a term of imprisonment of not less than three years or to both such fine and imprisonment if the offence relates to sub-sections (1) (d) (e), (f), (i), (j), and (m).

Contraventions by
petroleum carrying
ships.

99BB.(1) The owner or master of any ship carrying cargo, any part of which consists of petroleum, who fails to give notice to the port authorities upon entering a port, shall, on conviction, be liable to a fine of not less than ten million shillings, or to a term of imprisonment of not less than two years, or to both.

(2) The owner or master of any ship carrying cargo, any part of which consists of petroleum shall comply with any law relating to the transportation of petroleum.

(3) A person who, while within Kenya's Exclusive Economic Zone and Outer Continental Shelf, discharges or allows to escape into the –

- (a) petroleum or water mixed with petroleum;
- (b) water from bilges or tanks;
- (c) water used for flushing pipes and connections; or
- (d) sand used to absorb petroleum,

commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings, or to a term of imprisonment of not less than five years, or to both such fine and imprisonment and be responsible, at his or her own cost, for cleaning the water and restoring it to its original status.

(4) The government or a relevant agency shall as is reasonably practicable restore the environment to its former condition and such costs shall be recoverable from the owner or master of ship.

Regulations for
downstream
petroleum.

99CC. The Cabinet Secretary may, on the recommendation of the Authority , make regulations—

- (a) defining the kind of petroleum to which the regulations shall apply, and dividing petroleum into classes or categories and making different provisions with regard to such classes or categories;
- (b) providing for the importation, refining, exportation, landing, loading, shipping, transportation, storage, wholesale and retail of petroleum and prescribing a system of licensing for the purposes aforesaid, the manner in which application for any such licence shall be made, the conditions of licence, the authorities which may grant such licences, the fees which may be charged and any other matters incidental thereto;
- (c) setting, reviewing and adjusting tariffs and charges for common user storage facilities and refining of petroleum;
- (d) providing for importation of petroleum through open tendering system and the manner in which such system shall operate;
- (e) providing for maintenance of minimum operational stocks and procedures thereof;

- (f) providing for maintenance of strategic stocks and procedures thereof;
- (g) providing for the mode of sale, metering, documentation and display of prices of petroleum in retail dispensing sites and depots;
- (h) providing for environmental, health and safety standards associated with the handling, storage and use of petroleum;
- (i) providing for notice to be given by the owner or master of any ship entering a port with petroleum, and for ascertaining the quantity and specification of any petroleum on board any such ship;
- (j) determining the places at which, and the conditions on and subject to which, petroleum may be imported, offloaded, landed, stored, loaded or transhipped;
- (k) providing for the delivery to such officer as may be specified, samples of petroleum landed or intended to be landed and for the testing of such sample;
- (l) providing for the type and location of the premises in respect of which licences to possess petroleum may be granted, the inspection of premises so licensed and the taking of samples and the testing of petroleum found thereon;
- (m) governing the design, construction and operation of pipelines, refineries, bulk liquefied petroleum gas facilities, retail dispensing sites, storage depots and providing for the protection of property and the environment and the safety of the public in the construction and operation thereof;
- (n) governing the design and construction of vehicles to be used in the transportation of petroleum by road, rail, inland or coastal waters;
- (o) prohibiting or restricting the carriage of goods and passengers in vessels carrying petroleum;
- (p) prescribing the quantity of petroleum that may be conveyed at any one time or in any one vehicle;
- (q) prescribing the precautions to be observed in the transportation of petroleum, in the manner of packing and the mode and time of transit and in the loading and unloading of vessels used for such transportation;

- (r) in consultation with the body responsible for standards, prescribing apparatus for testing petroleum, the tests to be applied and the manner in which tests are to be carried out;
 - (s) in consultation with the body responsible for standards, appointing inspectors and agents for the testing and examination of petroleum and prescribing their powers and duties;
 - (t) prescribing the marking of fuels and categories of the petroleum in which such marking shall be carried out;
 - (u) prescribing for the provision of petroleum data and information to the Authority ;
 - (v) providing for the development and coordination of a National oil spill response plan including measures to prevent oil spills and a mechanism for compensation in the event of an oil spill;
 - (w) reviewing and approval of contracts on third party access to midstream petroleum infrastructure on reasonable terms and conditions;
 - (x) reviewing and approval of contracts on the use and access of petroleum logistic facilities;
 - (y) determining the maximum wholesale and retail prices of petroleum and petroleum products;
 - (z) prescribing guidelines and standards to be applied by all licensing authorities to ensure uniform standards of operation in the sector; and
 - (aa) governing the qualification and certification of petroleum road tanker drivers;
 - (bb) on the handling of petroleum products in aviation;
 - (cc) on the joint procurement of petroleum products;
 - (dd) prescribing requirements for undertaking businesses dealing with lubricants; and
-) generally for the better carrying out of the objects and purposes of this Act.

Licensee to furnish information.

99DD. It shall be the duty of every licensee to furnish to the licensing authority at such times and in such form and manner, such information as the licensing authority may, in writing, require.

False information.

99EE. A licensee who makes a false statement or a statement which he has reason to believe is untrue, to the Cabinet Secretary, or to the Authority, committee, agent or an officer acting on behalf of the Authority, as required under this Act, commits an offence and shall, on conviction, be liable to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both.

Disclosure of information.

99FF. Information obtained under section 99EE relating to any matter shall not be published or otherwise disclosed to a third party without prior consent in writing from the person from whom the information was obtained—

Provided that nothing in this section shall restrict—

(a) the disclosure of such information—

(i) to the Cabinet Secretary for the time being responsible for petroleum;

(ii) to any officer or authority having functions in relation to petroleum, policy development or economic planning of petroleum business in Kenya; and

(iii) in furtherance of a right to a person as provided for under the Constitution;

(b) the use of such information in any manner, which the Authority deems necessary or expedient in connection with the objects of this Act.

Licensing authorities not to discriminate.

99GG. While discharging its functions and exercising its powers under the Act, a licensing authority shall ensure that no particular person is given undue preference or subjected to any undue disadvantage.

Prosecution of offences.

99HH. The Director Public Prosecutions shall, on the request of the Commission, appoint any officer of the Commission or an advocate of the High Court to be a public prosecutor for the purposes of prosecuting offences under this Act.

Consolidated Energy Fund.

99II. (1) The Cabinet Secretary shall establish the Consolidated Petroleum Fund to cater for strategic petroleum reserve.

(2) The sources of funds shall be—

- (a) appropriations from Parliament;
- (b) contributions from the petroleum sector players;
- (c) Government securities and corporate bonds;
- (d) recovered assets from proceeds of crime in the petroleum sector;
- (e) grants, gifts and donations; and
- (f) monetary sanctions imposed by the Authority.

No. 18 of 2012

(3) For the avoidance of doubt, the fund shall be managed in accordance with the Public Finance Management Act.

(4) The Cabinet Secretary may prescribe regulations for the management of the Fund.

HEADING OF PART IX

THAT, Part IX of the Bill be amended by deleting the word "UPSTREAM" appearing in the heading of Part IX.

CLAUSE 100

THAT, clause 100 of the Bill be amended —

(a) in sub-clause (1)—

- (i) by inserting the words "or licensee" immediately after the word "contractor";
- (ii) by deleting the word "upstream";

(b) in sub-clause (2) —

- (i) by deleting the word "upstream" appearing in paragraph (a);
- (ii) by inserting the words "an announcement in a radio station of local coverage for a period of two weeks, the Gazette" immediately after the words "nationwide circulation" appearing in the proviso.

CLAUSE 101

THAT, clause 101 of the Bill be amended by inserting the words "and as shall be prescribed by regulations" immediately after the words "relevant written laws" appearing in the proviso.

CLAUSE 102

THAT, clause 102 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “upstream”;
- (b) in paragraph (a) by inserting the words “or licensee” immediately after the word “contractor”;
- (c) in paragraph (b) by deleting the word “upstream”;

CLAUSE 103

THAT, clause 103 of the Bill be amended by deleting the word “upstream”.

CLAUSE 105

THAT, clause 105 of the Bill be amended—

- (a) in sub-clause (1)-
 - (i) by deleting the words “the contractor or any person authorized by the contractor may” and substituting therefor the words “the contractor or any person authorized by the contractor or licensee may”;
 - (ii) by deleting the word “upstream” wherever it appears;
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—
 - (2) Where petroleum infrastructure is removed, the surface of the land shall forthwith be restored to its former condition as far as possible by the contractor or licensee and in default thereof restoration may be carried out by the owner of the land, and the costs thereof shall be recoverable from the contractor or licensee.
- (c) in the marginal note by inserting the words “or licensee” immediately after the word “contractor”;

CLAUSE 106

THAT, clause 106 of the Bill be amended—

- (a) by deleting the word “upstream”;
- (b) by inserting the words “or licensee” immediately after the word “contractor”;
- (c) in the marginal note by inserting the words “or licensee” immediately after the word “contractor”.

CLAUSE 107

THAT, clause 107 of the Bill be amended—

- (a) in sub-clause (1)—

- (i) by inserting the words “and any other relevant law” immediately after the words “in this Act”;
 - (ii) by deleting the word “upstream”;
 - (iii) by inserting the words “or licensee” immediately after the word “contractor”;
- (b) in sub-clause (2)—
- (i) by deleting the words “Notwithstanding the provisions of any other written law, but”;
 - (ii) by deleting the word “upstream”;
 - (iii) by inserting the words “or licensee” immediately after the word “contractor” in the proviso;
- (c) in sub-clause (3) by inserting the words “or licensee” immediately after the word “contractor”;
- (d) in sub-clause (4)—
- (i) by inserting the by inserting the words “or licensee” immediately after the word “contractor”;
 - (ii) by inserting the words “or licensee” immediately after the word “contractor” in the proviso;
- (e) in sub-clause (5) by inserting the words “or licensee” immediately after the word “contractor”;
- (f) in sub-clause (6) by inserting the words “or licensee” immediately after the word “contractor”;
- (g) in sub-clause (7) by inserting the words “or licensee” immediately after the word “contractor”;
- (h) in sub-clause (8) by inserting the words “or licensee” immediately after the word “contractor”;
- (i) in the marginal note by deleting the word “upstream”.

CLAUSE 108

THAT, clause 108 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “upstream” appearing in paragraph (a).
- (j) in sub-clause (3)—
 - (i) by deleting the word “upstream”;
 - (ii) by inserting the words “or licensee” immediately after the word “contractor”;
- (b) in sub-clause (4) by inserting the words “or licensee” immediately after the word “contractor”.

CLAUSE 109

THAT, clause 109 of the Bill be amended—

(a) in sub-clause (2) by deleting the words “a regulated” and substituting therefor the words “an upstream regulated”;

(b) by inserting the following new sub-clauses immediately after sub-clause (3)—

(4) Despite the provisions of sub-section (1) and (2), the Tribunal shall have original civil jurisdiction on any dispute arising out of the bidding rounds carried out under this Act.

(5) The Tribunal shall have original civil jurisdiction on any dispute between a licensee and a third party or between licensees in midstream and downstream petroleum operations.

(6) The Tribunal shall have appellate jurisdiction over the decisions of the Authority and any licensing authority in midstream and downstream petroleum operations and in exercise of its functions may refer any matter back to the Authority or any licensing authority for re-consideration.

CLAUSE 113

THAT, clause 113 of the Bill be amended by deleting the word “encroaches” in paragraph (a).

CLAUSE 119

THAT, clause 119 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (mm) —

(nn) the manner in which information on upstream petroleum can be accessed;

(oo) the method of public consultations and participation;

(pp) a grievance redress process to the Authority.

CLAUSE 120

THAT, clause 120 of the Bill be amended —

(a) in sub-clause (2) by inserting the words “privileges, liabilities” immediately after the words “contractual rights” appearing in paragraph (f);

(b) in sub-clause (3) by inserting the words “and the Ministry of Petroleum” immediately after the words “Energy Regulatory Commission established under section 4 of the Energy Act, 2006”.

- 2) **NOTICE is given that the Nominated Member (Hon. Godfrey Osotsi) intends to move the following amendments to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.48 of 2017) at the Committee Stage-**

CLAUSE 5

THAT, clause 5 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)—

(4) The Cabinet Secretary shall submit the published report to Parliament for its consideration.

CLAUSE 7

THAT, clause 7 of the Bill be amended—

(a) by renumbering the existing clause as sub-clause (1);

(b) by inserting the following new sub-clause immediately after sub-clause (1)—

(2) The Cabinet Secretary shall submit the published report to Parliament for its consideration.

- 3) **Notice is given that the Member for Turkana South (Hon. James Lomenen) intends to move the following amendments to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 48 of 2017) at the Committee Stage—**

CLAUSE 85

THAT, clause 85 of the Bill be amended—

(a) in sub-clause (2) by deleting the proviso;

(b) in sub-clause (3)—

(i) by deleting the words “five percent of the Government’s share” appearing immediately after the words “equivalent to” and substituting therefor the words “ten percent of the national government’s share”;

(ii) by deleting the proviso.

4) Notice is given that the Member for Turkana County (Hon. Joyce Emanikor) intends to move the following amendments to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 48 of 2017) at the Committee Stage—

CLAUSE 85

THAT, clause 85 of the Bill be amended—

(c) in sub-clause (2) by deleting the proviso;

(d) in sub-clause (3)—

(i) by deleting the words “five percent” appearing immediately after the words “equivalent to” and substituting therefor the words “ten percent”;

(ii) by deleting the proviso.

The House resolved on Wednesday, February 14, 2018 as follows:-

- III. **THAT**, notwithstanding the provisions of Standing Order 97(4), 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.
- IV. **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.
- V. **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.

NOTICE PAPER I

Tentative business for

Thursday (Morning), April 26, 2018

(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 Thursday (Morning), April 26, 2018:-

A. COMMITTEE OF THE WHOLE HOUSE

- (i) The Physical Planning Bill (National Assembly Bill No. 34 of 2017)
(The Leader of the Majority Party)
- (ii) The Computer and Cybercrimes Bill (National Assembly Bill No. 36 of 2017)
(The Leader of the Majority Party)

B. MOTION – REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION ON THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF COMMERCIAL VEHICLES) REGULATIONS, 2018

(The Chairperson, Committee on Delegated Legislation)

(If not concluded on Wednesday, April 25, 2018 – Afternoon sitting)

C. THE KENYA COAST GUARD SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2017)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, April 25, 2018 – Afternoon sitting)

D. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 51 OF 2017)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, April 25, 2018 – Afternoon sitting)

NOTICE PAPER II

Tentative business for

Thursday (Afternoon), April 26, 2018

(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 Thursday (Afternoon), April 26, 2018:-

A. THE HEALTH LAWS (AMENDMENT) BILL, 2018

(The Leader of the Majority Party)

First Reading

B. REPORT OF THE BUDGET & APPROPRIATIONS COMMITTEE ON THE SUPPLEMENTARY ESTIMATES II FOR THE FY 2017/2018

(The Chairperson, Budget & Appropriations Committee)

C. REPORT OF THE DEFENCE & FOREIGN RELATIONS COMMITTEE ON RATIFICATION OF THE AGREEMENT ESTABLISHING THE AFRICAN CONTINENTAL FREE TRADE AREA

(The Chairperson, Departmental Committee on Defence & Foreign Relations)

D. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 51 OF 2017)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Thursday, April 26, 2018 – Morning sitting)

E. THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2018)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, April 25, 2018 – Afternoon sitting)

F. THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2018)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, April 25, 2018 – Afternoon sitting)
