



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT – FOURTH SESSION
NATIONAL ASSEMBLY
VOTES AND PROCEEDINGS
THURSDAY, MAY 05, 2016

1. The House assembled at thirty minutes past Nine O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the First Chairperson
4. **PAPERS LAID**

The following Papers were laid on the Table -

An additional List of Nominees to twenty six (26) Constituency Committees of the National Government Constituencies Development Fund Committees from the National Constituencies Development Fund Board

(The Leader of Majority Party)

5. **NOTICES OF MOTIONS**

The following Notices of Motions were given -

Notice of Motion – Approval of Nominees to the Constituency Committees of National Government Constituency Development Fund
(The Chairperson, Select Committee on the National Government Constituency Development Fund)

THAT, this House approves the nominees listed hereunder to the respective twenty six (26) Constituency Committees of the National Government Constituencies Development Fund, laid on the Table of the House today, Thursday, 5th May, 2016 (Morning Sitting):-

1. Ainamoi Constituency
2. Bobasi Constituency

3. Embakasi West Constituency
4. Bomachoge Chache Constituency
5. Emuhaya Constituency
6. Ganze Constituency
7. Juja Constituency
8. Kabete Constituency
9. Kitui Rural Constituency
10. Konoin Constituency
11. Lungalunga Constituency
12. Matungu Constituency
13. Matungulu Constituency
14. Mbita Constituency
15. Navakholo Constituency
16. North Horr Constituency
17. Nyeri Town Constituency
18. Nyatike Constituency
19. Rangwe Constituency
20. Nyaribari Chache Constituency
21. Limuru Constituency
22. Ndhiwa Constituency
23. Kibwezi East Constituency
24. Kibwezi West Constituency
25. Malindi Constituency, and
26. Changanwe Constituency

6. COMMITTEE OF THE WHOLE HOUSE

IN THE COMMITTEE

The Second Chairperson of Committees

Clause 45 - amendment proposed –

THAT, clause 45 of the Bill be deleted.

(Hon. Mishi Juma)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 45 - agreed to.

Clause 46 - amendment proposed –

THAT, clause 46 of the Bill be deleted.

(Hon. Kamoti Mwamkale)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Further amendment proposed –

THAT, clause 46 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph-

“(a) in paragraph (1)–

(i) by deleting the words “in consultation with the Prime Minister” appearing in the opening sentence;

(ii) by deleting sub-paragraph (b); and

(a) by deleting the proviso; by deleting paragraph (b);

(b) by deleting paragraph (c);

(c) by deleting paragraph (d);

(d) by deleting paragraph (g);

(e) by deleting paragraph (h);

(f) by deleting paragraph (i); and

(g) by deleting paragraph (k).

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 46 - as amended agreed to.

Clause 47 - amendment proposed –

THAT, clause 47 of the Bill be amended in paragraph (c)–

(a) in the definition of the term “lawful improvements”, by deleting the words “means improvements which increase or improve the value of land which have been carried out bona fide with all the approvals and consents having been obtained in

accordance with all applicable law and includes" and substituting therefor the words "means improvements which increase or improve the value of land which have been quantified by a qualified valuer in accordance with all applicable law and includes"

- (b) in the definition of the term "substantial transaction", by deleting the words "means a transaction that involves the leasing or licensing of land to a local or foreign investor either alone or in a joint venture to carry out developments in agriculture and other approved ventures with direct developmental benefits for Kenya through" and substituting therefor the words "means a transaction that involves the transfer, leasing or licensing of land to a local or foreign investor either alone or in a joint venture to carry out developments in agriculture and other approved ventures with direct developmental benefits for Kenya through"
- (c) by inserting the following new definition immediately after the definition of "agriculture or agricultural"–

"customary land" means private land on which one or more members of the family have customary rights of ownership"

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 47 - as amended agreed to.

Clause 48 - amendment proposed –

THAT, clause 48 of the Bill be amended–

- (a) by inserting the words "of the Land Act is amended" immediately after the words "Section 5";
- (b) in the proposed new subsection (3), by deleting the words "or vice versa".

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 48 - as amended agreed to.

Clause 49 - amendment proposed –

THAT, clause 49 of the Bill be deleted.

(Hon. Kamoti Mwamkale)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Further amendment proposed –

THAT, clause 49 of the Bill be amended–

(a) in the proposed new paragraph (g), by inserting the words “in consultation with the Commission where appropriate” immediately after the words “classes of land”;

(b) by deleting the proposed new paragraph (h) and substituting therefor the following new paragraph–

“(h) coordinate the development and implementation of a National Land Information System in collaboration with the Commission”

(c) by deleting the proposed new paragraph (i) and substituting therefor the following new paragraph–

“(i) administer and undertake all dealings including registration of private land interests subject to Part VIII of this Act”

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 49 - as amended agreed to.

Clause 50 - amendment proposed –

THAT, clause 50 of the Bill be amended in the proposed new subsection (2), by deleting the word “alienation” appearing in paragraph (a) and substituting therefor the word “allocation”.

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 50 - as amended agreed to.

Clause 51 - agreed to;

Clause 52 - amendment proposed –

THAT, clause 52 of the Bill be deleted.

(Hon. Kamoti Mwamkale)

Question for the amendment proposed;

Debate arising;

QUORUM

Rising in his place on a Point of Order, the Member for Nyando (Hon. Fredrick Outa) drew the attention of the Chairperson the fact that there was no requisite quorum in the House;

And the Chairperson, having confirmed that there was no quorum, caused the Division Bell be rung for ten minutes;

And there being a quorum after expiry of seven minutes

Debate interrupted resumed;

Question put and negatived;

Further amendment proposed -

THAT, clause 52 of the Bill be amended in the proposed new subsection (1) by deleting the introductory statement and substituting therefor the following new introductory statement–

“(1) Whenever the national or county government is satisfied that it may be necessary to allocate the whole or part of a specific public land, the Cabinet Secretary or the County Executive Committee member responsible for matters relating to land shall submit a request to the Commission for the necessary action by way of–”

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 52 - as amended agreed to.

Clause 53 - amendment proposed –

THAT, clause 53 of the Bill be deleted.

(Hon. Andrew Mwadime)

Question for the amendment proposed;

Debate arising;

Question put and negatived;

Further amendment proposed -

THAT, clause 53 of the Bill be amended in the proposed new section 12A–

(a) in subsection (1)–

(i) by deleting paragraph (c) in the definition of “controlled land”;

- (ii) by deleting paragraph (d) in the definition of "controlled land;
- (iii) by deleting paragraph (e) in the definition of "controlled land;
- (iv) by deleting paragraph (iii) in the definition of "ineligible person" and substituting therefor the following new paragraph–
 - "(iii) a body corporate which has non-citizens as shareholders shall be deemed to be a non-citizen."
- (b) by deleting subsection (2) and substituting therefor the following new subsection–
 - "(2) No transaction in controlled land, including a transfer for a consideration or by way of trusts, gift *inter vivos* or otherwise to an ineligible person, shall be dealt with without the prior written approval of the Cabinet Secretary."
- (c) by deleting subsection (3);
- (d) by deleting subsection (4);
- (e) by deleting subsection (5);
- (f) by deleting subsection (6) and substituting therefor the following new subsection–
 - "(6) In deciding whether to approve or not approve an application, the Cabinet Secretary shall seek the approval of the relevant authorities"; and
- (g) by deleting subsection (7).

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 53 - as amended agreed to.

Clause 54 - amendment proposed –

THAT, clause 54 of the Bill be amended–

- (a) in paragraph (a), by deleting the proposed new subsection (1) and substituting therefor the following new subsection–
 - "(1) Before the expiry of the leasehold tenure, the Commission shall–
 - (a) within five years, notify the lessee, by registered mail, of the date of expiry of the lease and inform the lessee of his or her pre-emptive right to allocation of the land upon application, provided that such lessee is a Kenyan citizen and that the land is not required by the national or county government for public purposes; and
 - (b) if within one year the lessee shall not have responded to the notification, publish the notification in one newspaper of nationwide circulation.";

(b) in paragraph (b), by deleting the proposed new subsection (1A);

(c) by deleting paragraph (c);

(d) in paragraph (d)–

(i) by deleting the proposed new subsection (4);

(ii) by deleting the proposed new subsection (5);

(iii) by deleting the proposed new subsection (6);

(iv) by deleting the proposed new subsection (7); and

(v) by inserting the following new subsections immediately after subsection (3)–

“(4) Subject to the provisions of subsection (1), a lessee shall be entitled to apply for a renewal of the lease at any time before the expiry of the lease.

(5) If the lessee does not apply for the allocation of land at the date of expiry of the lease, the lessee shall be deemed to have forfeited the pre-emptive right over the land.

(6) An application under this section shall be in the prescribed form.”

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed -

THAT, clause 54 of the Bill be amended–

(a) in paragraph (a), in the proposed new subsection (1) by inserting the words “and via email, if available” immediately after the words “by registered mail”;and

Proposed further amendment withdrawn;

(b) in paragraph (b) by inserting the following new subsection immediately after the proposed new subsection (1A)–

“(1AB) Notwithstanding the provisions of subsection (1A), an administrator of the lessee’s estate may be allowed to apply for an extension of the lease before it expires”.

(Hon. William Kisang)

Question for the further amendment proposed;

Debate arising;

Question put and agreed to;

Clause 54 - as amended agreed to.

Clauses 55 & 56 - agreed to.

Clause 57 - amendment proposed –

THAT, clause 57 of the Bill be amended in paragraph (b) by deleting the proposed new subsection (2) and substituting therefor the following new subsection–

“(2) A lease or licence for public land shall be issued by the Commission and shall be registered by the Chief Lands Registrar.”

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 57 - as amended agreed to.

Clause 58 - agreed to.

Clause 59 - amendment proposed –

THAT, clause 59 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph–

“(a) in subsection (1) by deleting the word “determination” appearing in paragraph (a) and substituting therefor the word “termination”.

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 59 - as amended agreed to.

Clause 60 - agreed to.

Clause 61 - amendment proposed –

THAT, clause 61 of the Bill be amended–

(a) in paragraph (b) by deleting the words “Unless otherwise” appearing in sub-paragraph (i) and substituting therefor the words “Other than as”;

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

“(c) by deleting subsection (2) and substituting therefor the following new subsection–

“(2) Subsection (1) shall not apply to–

(a) a contract made in the course of a public action;

- (b) the creation or operation of a resulting, implied or a constructive trust;
or
- (c) any agreement or contract made or entered into before the commencement of this Act, provided that–
 - (i) the verbal contracts shall be reduced to writing within two years from the date of enactment of this Act; and
 - (ii) the Cabinet Secretary shall put a notice of the requirement to reduce the contracts in writing, in a newspaper of nationwide circulation."

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 61 - as amended agreed to.

Clause 62 - agreed to.

Clause 63 - amendment proposed –

THAT, clause 63 of the Bill be amended in paragraph (b) by deleting the word "he" appearing immediately after the words "substituting therefor the".

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 63 - as amended agreed to.

Clause 64 - amendment proposed –

THAT, clause 64 of the Bill be amended in paragraph (b) by deleting the word "reasonable" appearing immediately after the words "and upon giving" and substituting therefor the words "a seven days' notice".

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 64 - as amended agreed to.

Clause 65 - amendment proposed –

THAT, clause 65 of the Bill be deleted and replaced by the following new clause–

Amendment of section
72 of No. 6 of 2012.

65. Section 72 of the Land Act is amended in subsection (1) by deleting the word “not” appearing immediately after the words “and shall”.

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 65 - as amended agreed to.

Clause 66 - agreed to.

Clause 67 - amendment proposed –

THAT, clause 67 of the Bill be amended–

(a) in paragraph (b) by inserting the words “paragraph (a) of” immediately after the word “in”;

(b) by deleting paragraph (d).

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 67 - as amended agreed to.

Clause 68 - amendment proposed –

THAT, clause 68 of the Bill be amended in paragraph (b) by deleting the proposed new subsection (4) and substituting therefor the following new subsection–

“(4) Unless otherwise provided in the charge instrument, if the chargee, holding a charge created subsequent in time to one in favour of a prior chargee, lends money or money’s worth on the security of a charge to a chargor and it later transpires that a prior chargee or the chargor himself acted dishonestly or fraudulently in procuring the charge, the prior chargee’s right to repayment under the charge shall be postponed to the rights of the subsequent chargee.”

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 68 - as amended agreed to.

Clauses 69, 70 & 71 - agreed to.

Clause 72 - amendment proposed –

THAT, clause 72 of the Bill be deleted and replaced by the following new clause–

Amendment of
section 88 of No. 6
of 2012.

72. Section 88 of the Land Act is amended in subsection (1) by deleting the word “at” appearing immediately after the word “improvements” in paragraph (c).

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 72 - as amended agreed to.

Clause 73 - amendment proposed –

THAT, clause 73 of the Bill be amended in paragraph (b) by deleting the words “three months” appearing at the end of the sentence and substituting therefor the words “ninety days”.

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 73 - as amended agreed to.

Clause 74 - amendment proposed –

THAT, clause 74 of the Bill be deleted and replaced by the following new clause–

Amendment of
section 91 of No. 6
of 2012.

74. Section 91 of the Land Act is amended by deleting the words “this section” and substituting therefor the words “subsection (1)(c) of this section.

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 74 - as amended agreed to.

Clauses 75 & 76 - agreed to.

Clause 77 - amendment proposed –

THAT, clause 77 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)–

“(aa) in subsection (2) by inserting the following new proviso at the end of the subsection–

“Provided that this power of entry shall only be exercised after obtaining a court order.”

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 77 - as amended agreed to.

Clauses 78 & 79 - agreed to.

Clause 80 - amendment proposed –

THAT, clause 80 of the Bill be amended in paragraph (c)–

(a) in the proposed new subsection (6), by deleting the word “charge” appearing immediately after the words “made after the” and substituting therefor the word “transfer”;

(b) in the proposed new subsection (9), by inserting the word “cease” immediately after the words “under the charge shall”;

(c) by deleting the proposed new subsection (10) and substituting therefor the following new subsection–

“(10) Upon the deposit referred to in subsection (9), the Registrar shall cancel the registration of the charge and the Court shall pay the amount deposited to the chargee if the charge applies for it within six years of the deposit, and where the chargee does not apply for the amount within the stated period, it shall be deposited with the Unclaimed Financial Assets Authority as an unclaimed asset.”

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed -

THAT, clause 80 of the Bill be amended in paragraph (c)–

- (a) in the proviso to the proposed new subsection (5), by deleting the words “not more than three months” and substituting therefor the words “not more than six months”; and
- (b) in the proposed new subsection (10), by deleting the words “consolidated fund” and substituting therefor the words “Unclaimed Assets Trust Fund”;

(Hon. William Kisang)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Clause 80 - as amended agreed to.

Clause 81 - amendment proposed –

THAT, clause 81 of the Bill be amended in sub-paragraph (ii) by deleting the figure “(a)” appearing at the end of the sentence and substituting therefor the figure “(c)”.

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 81 - as amended agreed to.

Clause 82 - amendment proposed –

THAT, clause 82 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph–

“(a) in subsection (1) by deleting the word “available” appearing immediately after the words “available remedies” in sub-paragraph (i) of paragraph (b).”

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 82 - as amended agreed to.

Clause 83 - amendment proposed –

THAT, clause 83 of the Bill be amended in paragraph (b) by deleting the words “three months, the acquiring authority may proceed and acquire the land” appearing in the proposed new subsection (4) and substituting therefor the words “thirty days, it shall give to the acquiring authority the reasons for the decline and the conditions that must be met”.

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 83 - as amended agreed to.

Clause 84 - agreed to.

Clause 85 - amendment proposed –

THAT, clause 85 of the Bill be amended–

(a) by inserting the following new paragraph immediately after paragraph (a)–

“(aa) in subsection (1) by deleting the words “rate prevailing bank rates” and substituting therefor the words “base lending rate set by the Central Bank of Kenya and prevailing at that time”;

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

“(b) by deleting subsection (2) and substituting therefor the following new subsection–

“(2) If additional compensation is payable under section 119 there shall be added to the amount of the additional compensation interest thereon at the base lending rate set by the Central Bank of Kenya and prevailing at that time, from the time when possession was taken or compensation was paid, whichever is earlier.”

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 85 - as amended agreed to.

Clause 86 - agreed to.

Clause 87 - amendment proposed –

THAT, clause 87 of the Bill be amended–

- (a) by deleting the proposed new marginal note and substituting therefor the following new marginal note–

“Condition for payment of compensation”;

- (b) by renumbering the amendment as paragraph (a); and

- (c) by inserting the following new paragraph immediately after paragraph (a)–

“(b) by deleting section 119 and replacing with the following new section–

Condition for
payment of
compensation.

119. Payment of compensation shall be made only upon the exercise of due diligence which shall include final survey and the determination of acreage, boundaries, ownership and value.

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 87 - as amended agreed to.

Clauses 88 & 89 - agreed to.

Clause 90 - amendment proposed –

THAT, clause 90 of the Bill be amended by deleting paragraph (b).

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 90 - as amended agreed to.

Clause 91 - agreed to.

Clause 92 - amendment proposed –

THAT, clause 92 of the Bill be deleted and replaced by the following new clause–

Amendment of
section 124 of
No. 6 of 2012.

92. Section 124 of the Land Act is amended–

- (a) by deleting the marginal note and substituting therefor the following new marginal note–
Power to obtain temporary occupation of land.

in subsection (3) by deleting the words “the first offer of” appearing immediately after the words “may after paying” and substituting therefor the word “full”.

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 92 - as amended agreed to.

Clause 93 - amendment proposed –

THAT, clause 93 of the Bill be amended–

- (a) by renumbering the current amendment as paragraph (a); and

- (b) by inserting the following new paragraph immediately after paragraph (a)–

“(b) by deleting subsection (2)”

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

QUORUM

Rising in his place on a Point of Order, the Member for Magarini (Hon. Harrison Kombe) drew the attention of the Chairperson to the fact that there was no requisite quorum in the House;

And the Chairperson, having confirmed that there was no quorum, caused the Division Bell be rung for ten minutes;

And there being a Quorum after expiry of five minutes;

Debate interrupted resumed;

Question put and agreed to;

Clause 93 - as amended agreed to.

Clause 94 - agreed to.

Clause 95 - amendment proposed –

THAT, clause 95 of the Bill be deleted.

(Hon. Abdulswamad Nassir)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Further amendment proposed -

THAT, clause 95 of the Bill be amended–

(a) by deleting paragraph (b);

(b) by renumbering the sentence beginning with the words “in subsection (3) as paragraph (b);

(c) by inserting the following new paragraph immediately after paragraph (b)–

“(bb) by deleting subsection (4) and substituting therefor the following new subsection–

“(4) Identification of beneficiaries shall be carried out and verified by a sub-county selection committee appointed by the Cabinet Secretary comprising of the following persons–

(a) the deputy county commissioner;

(b) the sub-county administrator;

(c) a representative of the Commission;

(d) a national government representative, who shall be the secretary;

(e) a representative of persons with special needs;

(f) a representative of women;

(g) a youth representative; and

(h) a representative of elders;

Provided that–

(i) the persons appointed under paragraphs (e), (f), (g) and (h) shall be nominated by the area member of the National Assembly; and

(ii) a chairperson shall be appointed at the first sitting of the committee from the persons appointed under paragraphs (e), (f), (g) and (h).”

(d) in paragraph (e) by deleting the word "not" appearing immediately after the words "or any other law shall"; and

(e) by deleting paragraph (f) and substituting therefor the following new paragraph–

"(f) in subsection (8) by deleting the words "the Commission and" appearing immediately after the words "from time to time".

(Chairperson, Departmental Committee on Lands)

Question for the further amendment proposed;

Debate arising;

Question put and agreed to;

Clause 95 - as amended agreed to.

Clause 96 - amendment proposed –

THAT, clause 96 of the Bill be amended–

(a) in paragraph (b)–

- (i) in the proposed new subsection (1A) by deleting the words "the Order" appearing immediately after the words "Agency under" in paragraph (d) and substituting therefor the words "this Act";
- (ii) in the proposed new subsection (1B) by inserting the following new paragraph immediately after paragraph (d)–

- (iii) in the proposed new subsection (1C) by inserting the following new paragraphs immediately after the introductory statement–

(a) be responsible for the provision of access to land–

- (i) to squatters;
- (ii) to displaced persons;
- (iii) for development projects;
- (iv) for conservation; or
- (v) such other causes that may lead to movement and displacement of persons;

(b) purchase private land for settlement programmes;

(c) coordinate the provision of shelter and a livelihood to persons in need of settlement programmes; and

(d) perform any other function that may enhance the development and promotion of settlement programmes.

(b) in paragraph (c)–

- (i) by inserting the words "and substituting therefor the words "Board of the Land Settlement Fund Trustees" at the end of sub-paragraph (i);

(ii) by deleting sub-paragraph (ii);

(c) by deleting paragraph (e) and substituting therefor the following new paragraph–

“(e) by deleting subsection (5) and substituting therefor the following new subsection–

(5) In carrying out its functions under Part IX of this Act, the Board of the Land Settlement Fund Trustees shall consult the relevant county government where applicable”

(Chairperson, Departmental Committee on Lands)

Question for the further amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed -

Clause 96 - as amended agreed to.

Clauses 97, 98 & 99 - agreed to.

Clause 100 - amendment proposed –

THAT, clause 100 of the Bill be deleted.

(Hon. Abdulswamad Nassir),

Proposed further amendment withdrawn;

Clause 100 - agreed to.

Clause 101 - agreed to.

Clause 102 - amendment proposed –

THAT, clause 102 of the Bill be deleted and substituted therefor the following new clause–

Amendment of section 147 of No. 6 of 2012.

102. Section 147 of the Land Act is amended in subsection (2) by deleting the words “certificate of occupancy” and substituting therefor the words “certificate of title or certificate of lease” in paragraph (a).

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 102 - as amended agreed to.

Clause 103 - amendment proposed –

THAT, clause 103 of the Bill be deleted.

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 103 - deleted.

Clause 104 - agreed to.

Clause 105 - amendment proposed –

THAT, clause 105 of the Bill be amended–

- (a) by deleting the proposed new section 152D and substituting therefor the following new section–

Eviction
notice to
unlawful
occupier
s of
commun
ity land.

152D. (1) The County Executive Committee Member responsible for land matters shall cause a decision relating to an eviction from unregistered community land to be notified to all affected persons, in writing, by notice in the Gazette and in one newspaper with nationwide circulation and by radio announcement, in a local language, where appropriate, at least three months before the eviction.

(2) In the case of registered community land, the procedure prescribed in section 152E shall apply.

- (b) in the proposed new section 152E–

- (i) in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph–

“(a) be in writing and in a national and official language”

- (ii) in subsection (2) by inserting the following new paragraph immediately after paragraph (c)–

“(d) be served on the deputy county commissioner in charge of the area as well as the officer commanding the police division of the area”

- (iii) by deleting subsection (3);

- (iv) by deleting subsection (4);

(c) by inserting the following new section immediately after section 152E–

Application to
Court for relief.

152EA. (1) Any person or persons served with a notice in terms of sections 152C, 152D and 152E may apply to Court for relief against the notice.

(2) The Court, after considering the matters set out in sections 152C, 152D and 152E, may–

- (a) confirm the notice and order the person to vacate;
- (b) cancel, vary, alter or make additions to the notice on such terms as it deems equitable and just;
- (c) suspend the operation of the notice for any period which the court shall determine; or
- (d) order for compensation.

(d) in the proposed new section 152F–

- (i) by deleting the figure (1) appearing at the beginning of the section;
- (ii) by deleting the words “and any national or local code of conduct consistent with international law enforcement and human rights standards” appearing in paragraph (h);
- (iii) by deleting paragraph (j); and

(e) by deleting the proposed new subsection 152G and substituting therefor the following new section–

Disposal of property
left after eviction.

152G. The competent officer of the Commission or County Government, community owning a registered community land or owner of private land shall at least seven days from the date of the eviction, remove or cause to be removed or disposed by public auction, any unclaimed property that was left behind after an eviction from private, community or public land.

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 105 - as amended agreed to.

Clause 106 - amendment proposed –

THAT, clause 106 of the Bill be deleted.

(Hon. Andrew Mwadime)

Question for the amendment proposed;

Debate arising;

Question put and negatived;

Clause 106 - agreed to.

Clause 107 - agreed to

Clause 108 - amendment proposed –

THAT, clause 108 of the Bill be deleted;

(Hon. Andrew Mwadime)

Proposed amendment withdrawn;

Further amendment proposed –

THAT, clause 108 of the Bill be deleted and replaced by the following new clause–

Amendment
of section
159 of No. 6
of 2012.

108. The Land Act is amended by deleting section 159 and substituting therefor the following new section–

Minimum
and
maximum
land
holding
acreages.

159. (1) Subject to Article 40 of the Constitution–

(a) the minimum land holding acreage shall be subject to the provisions of Article 66(1) of the Constitution and the legislation envisaged therein.

(b) the maximum land holding acreage shall be subject to Article 60(1) (a) and (c) of the Constitution.

(2) The Cabinet Secretary shall publish guidelines on the penalties for non-compliance with the provisions of this section.

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 108 - as amended agreed to.

Clause 109 - amendment proposed –

THAT, clause 109 of the Bill be deleted.

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 109 of the Bill be deleted.

(Hon. Andrew Mwadime)

Proposed further amendment withdrawn;

Clause 109 - deleted;

Clause 2 - agreed to;

Title - agreed to;

Clause 3 - agreed to;

Bill to be reported with amendments.

7. **HOUSE RESUMED** - the Second Chairperson in the Chair

The Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report, subject to re-committal of Clause 44;

(The Leader of the Majority Party)

Question proposed;

Question put and agreed to;

8. COMMITTEE OF THE WHOLE HOUSEIN THE COMMITTEE

The Second Chairperson of Committees

(i) The Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015)

Clause 44 - amendment proposed –

THAT, clause 44 of the Bill be deleted;

(Hon. Kamoti Mwamkale)

Proposed amendment dropped;

Further amendment proposed;

THAT, clause 44 of the Bill be deleted and replaced by the following new clause–

Amendment of section 15 of No. 5 of 2012.

44. Section 15 of the National Land Commission Act is deleted and replaced by the following new section–

Historical land injustices.

15. (1) Pursuant to Article 67(3) of the Constitution, the Commission shall receive, admit and investigate all historical land injustice complaints and recommend appropriate redress.

(2) For the purposes of this section, a historical land injustice means a grievance which–

- (a) was occasioned by a violation of right in land on the basis of any law, policy, declaration, administrative practice, treaty or agreement;
- (b) resulted in displacement from their habitual place of residence;
- (c) occurred between 15th June 1895 when Kenya became a protectorate under the British East African Protectorate and 27th August, 2010 when the Constitution of Kenya was promulgated;
- (d) has not been sufficiently resolved and subsists up to the period specified under paragraph (c); and meets the criteria set out under subsection 3 of this section.

(3) A historical land claim may only be admitted, registered and processed by the Commission if it meets the following criteria–

- (a) it is verifiable that the act complained of resulted in displacement of the claimant or other form of historical land injustice;

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- (b) the claim has not or is not capable of being addressed through the ordinary court system on the basis that—
 - (i) the claim contradicts a law that was in force at the time when the injustice began; or
 - (ii) the claim is debarred under section 7 of the Limitation of Actions Act or any other law;
 - (c) the claimant was either a proprietor or occupant of the land upon which the claim is based;
 - (d) no action or omission on the part of the claimant amounts to surrender or renouncement of the right to the land in question; and
 - (e) it is brought within five years from the date of commencement of this Act.
- (4) A claim alleging historical land injustice shall be permissible if it was occasioned by—
- (a) colonial occupation;
 - (b) independence struggle;
 - (c) pre-independence treaty or agreement between a community and the government;
 - (d) development-induced displacement for which no adequate compensation or other form of remedy was provided, including conversion of non-public land into public land;
 - (e) inequitable land adjudication process or resettlement scheme;
 - (f) politically motivated or conflict based eviction;
 - (g) corruption or other form of illegality;
 - (h) natural disaster; or
 - (i) other cause approved by the Commission.
- (5) When conducting investigations under subsection (1) into historical land injustices the Commission may—
- (a) request from any person including any government department such particulars, documents and information regarding any investigation, as may be necessary; or
 - (b) by notice in writing, addressed and delivered by a staff of the Commission to any person, direct such person, in relation to any investigation, to appear before the Commission at such time and place as may be specified in the notice, and to produce such documents or objects in the possession, custody or under the control of such person and which are relevant to that investigation.

(6) Where a complainant is unable to provide all the information necessary for the adequate submission or investigation of a complaint, the Commission shall take reasonable steps to have this information made available.

(7) If at any stage during the course of an investigation, the Commission is of the opinion that the resources of the Commission may be more effectively utilized if all claims within a given area or township were to be investigated at the same time, the Commission shall cause to be published in the Gazette or in such other manner as the Commission may deem appropriate, a notice advising potential complainants of the decision and inviting them to lodge claims within a period specified in such notice.

(8) A claim in respect of a matter contemplated in subsection (7) shall not be lodged after the expiry of the period specified in the said notice.

(9) The Commission, after investigating any case of historical land injustice referred to it, shall recommend any of the following remedies–

- (a) restitution;
- (b) compensation, if it is impossible to restore the land;
- (c) resettlement on an alternative land;
- (d) rehabilitation through provision of social infrastructure;
- (e) affirmative action programmes for marginalized groups and communities;
- (f) creation of wayleaves and easements;
- (g) order for revocation and reallocation of the land;
- (h) order for revocation of an official declaration in respect of any public land and reallocation;
- (i) sale and sharing of the proceeds;
- (j) refund to *bona fide* third party purchasers after valuation; or
- (k) declaratory and preservation orders including injunctions.

(10) Upon determination of a historical land injustice claim by the Commission, any authority mandated to act under the redress recommended shall be required to do so within three years.

(11) The provisions of this section shall stand repealed within ten years.

(Chairperson, Departmental Committee on Lands)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 44 - as amended agreed to.

Bill to be reported with amendments.

(ii) **The Seeds and Plants Varieties (Amendment) Bill (National Assembly Bill No. 43 of 2015)**

Clause 3 - amendment proposed –

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

Amendment of
Section 2 of
Cap.326

3. Section 2 of the principal Act is amended—

- (a) in the definition of the phrase "national variety list" by deleting the words " are for the time being exploited commercially" and substituting therefor the words "have been tested, officially released and published in the Gazette";
- (b) in the definition of "seed" by inserting the words " plantlet, mini-tuber" immediately after the word "sucker";
- (c) by inserting the following new definition in its proper alphabetical sequence—

"plant genetic resources for food and agriculture" means any genetic material of plant origin of actual or potential value for food and agriculture including indigenous seeds and plant varieties;"

(Chairperson, Departmental Committee on Agriculture, Livestock and Co-operatives)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to.

Clause 4 - amendment proposed –

THAT, clause 4 of the Bill be amended by—

- (a) deleting the proposed new subsection (1) and substituting therefor the following new subsection, in paragraph (a)—

"(1) There is established a Plant Genetic Resources Centre for Food and Agriculture, which shall be responsible for the conservation and sustainable utilization of plant genetic resources for food and agriculture, including indigenous seeds and plant varieties in Kenya.";

(b) deleting the proposed new marginal note and substituting therefor the following in paragraph (b)—

“Establishment of Plant Genetic Resources Centre for Food and Agriculture.”

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

“(i) deleting the words “National Plant Genetic Resources Centre” and substituting therefor the words “Plant Genetic Resources Centre for Food and Agriculture”;

(d) deleting the proposed subsection (3) and substituting therefor the following new subsection, in paragraph (d)—

“(3) There shall be a Plant Genetic Resources Committee for food and Agriculture, which shall provide oversight on matters relating to the Centre.”

(Chairperson, Departmental Committee on Agriculture, Livestock and Co-operatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to.

Clause 2 - amendment proposed –

THAT, clause 2 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) deleting the word “national” appearing immediately after the words “to establish a”; and”

(Chairperson, Departmental Committee on Agriculture, Livestock and Co-operatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to.

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments.

9. **HOUSE RESUMED** - the Second Chairperson in the Chair

(i) **The Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015)**

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report;

(The Leader of the Majority Party)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015) be now read a Third Time

(The Leader of the Majority Party)

Debate arising;

Question put and agreed to;

Bill read a Third Time and **passed**.

(ii) **The Seeds and Plants Varieties (Amendment) Bill (National Assembly Bill No. 43 of 2015)**

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report

(The Leader of the Majority Party)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Seeds and Plants Varieties (Amendment) Bill (National Assembly Bill No. 43 of 2015) be now read a Third Time

(The Leader of the Majority Party)

Debate arising;

Question put and agreed to;

Bill read a Third Time and **passed**.

10. **THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO. 63 OF 2015)**

Order for Second Reading read;

Motion made and question proposed;

THAT the Election Laws (Amendment) (No.3) Bill (National Assembly Bill No. 63 of 2015) be read a Second Time

(Chairperson, Departmental Committee on Justice & Legal Affairs – 4.5.2016 (AM))

Debate interrupted on Wednesday, May 04, 2016 (Morning Sitting) resumed;

And the time being One O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

11. HOUSE ROSE - at One O'clock

M E M O R A N D U M

The Speaker will take the Chair today,
Thursday, May 05, 2016 at 2.30 p.m.

--X--