



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, OCTOBER 8, 2025 AT 9:30 AM

1. The House assembled at thirty minutes past Nine O'clock.
2. The Proceedings were opened with Prayer.
3. **Presiding** – the Deputy Speaker.
4. **QUORUM AT COMMENCEMENT OF THE HOUSE**

And there being no quorum present to commence business, the Hon. Deputy Speaker, ordered that the Quorum Bell be rung for ten minutes;

And there being no quorum present at the expiration of ten minutes, the Hon. Deputy Speaker, ordered that the Quorum Bell be rung for a further five minutes;

And Quorum having been attained within the further five minutes, business commenced.

5. STATEMENTS

(a) **Statements pursuant to Standing Order 44(2)(c) —**

- (i) The Member for Mandera County (Hon. Umul Ker Kassim) requested for a Statement from the Chairperson, Departmental Committee on Communication, Information and Innovation regarding absence of communication network in *Lulis* location in Mandera County; and
- (ii) The Member for Marsabit County (Hon. Naomi Waqo) requested for a Statement from the Chairperson, Departmental Committee on Administration and Internal Security regarding disappearance of *Mr. Galgallo Bagaja Malicha*.

(b) **Response to Statement pursuant to Standing Order 44(2)(c) —**

- (i) On behalf of the Chairperson for the Departmental Committee on Defence, Intelligence and Foreign Relations, the Hon. Millie Odhiambo, responded to a Statement requested by the Member for Turkana North (Hon. Ekwom Nabuin), regarding the status of investigations into the *Todonyang* Massacre.
- (ii) Response to a Statement requested by Nominated Member (Hon. Sulekha Harun) regarding insecurity near border point one in Mandera County was deferred.

6. RE-ORGANISATION OF BUSINESS

Pursuant to Standing Order 40(3), the Deputy Speaker reordered the sequence of proceedings as follows—

- Consideration of **Order No. 9** (*Committee of the Whole House*) to be undertaken before consideration of **Order No. 8** (*Motion- Report of the Committee of the Whole House on its consideration of the Institute of Social Work Professionals Bill (National Assembly Bill No. 17 of 2023)*).

7. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Sixth Chairperson of Committees in the Chair

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

Clause 5 - amendment proposed -

THAT, the Bill be amended by deleting Clause 5 and substituting therefor the following new clause 5—

Assisted
Reproductive
Technology
Committee

5. (1) The Council shall establish a Committee to be known as the Assisted Reproductive Technology Committee.

(2) The Committee shall conduct its business and affairs in accordance with the provisions of the Schedule.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed:

THAT, the Bill be amended by deleting Clause 5 and substituting therefor the following new clause 5—

Assisted
Reproductive
Technology
Committee

5. (1) The Council shall establish a Committee to be known as the Assisted Reproductive Technology Committee.

(2) The Committee shall conduct its business and affairs in accordance with the provisions of the Schedule.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 5 as amended - agreed to.

Clause 6 - amendment proposed -

THAT, Clause 6 of the Bill be amended in—

- (a) the opening sentence by deleting the word “Directorate” and substituting therefor the word “Council”;

- (b) paragraph (i), by deleting the words “in consultation with the Medical Practitioners and Dentist Council,”; and
- (c) paragraph (o), by deleting the word “Directorate” and substituting therefor the word “Council”.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 6 of the Bill be amended in—

- (a) the opening sentence by deleting the word “Directorate” and substituting therefor the word “Council”;
- (b) paragraph (i), by deleting the words “in consultation with the Medical Practitioners and Dentist Council,”; and
- (c) paragraph (o), by deleting the word “Directorate” and substituting therefor the word “Council”.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 6 as amended - agreed to.

Clause 7 - amendment proposed -

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 7 of the Bill be amended in paragraph (c) by deleting the words “National Health Insurance Fund” and substituting therefor the words “Social Health Authority”.

(Hon. Millie Odhiambo)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 7 of the Bill be amended—

- (a) in paragraph (a), by deleting the words “and quality of cost-effective” and substituting therefor the words “of”;

- (b) by deleting paragraph (b) and substituting therefor the following new paragraph (b)—
 - “(b) provide resources necessary to ensure access to the highest attainable standard of assisted reproductive technology services”;
- (c) by deleting paragraph (c); and
- (d) by deleting paragraph (d).

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 7 as amended - agreed to.

Clause 8 - Consideration of Clause 8 postponed pursuant to the provisions of Standing Order 133(10).

Clause 9 - amendment proposed -

THAT, the Bill be amended by deleting Clause 9.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, the Bill be amended by deleting Clause 9.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 9 - deleted.

Clause 10 - amendment proposed -

THAT, the Bill be amended by deleting Clause 10.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, the Bill be amended by deleting Clause 10.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 10 - deleted.

Clause 11 - agreed to.

Clause 12 - amendment proposed

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 12 as amended - agreed to.

Clause 13 - amendment proposed -

THAT, Clause 13 of the Bill be amended in—

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 13 of the Bill be amended in—

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 13 as amended - agreed to.

Clause 14 - Consideration of Clause 14 postponed pursuant to the provisions of Standing Order 133(10).

Clause 15 - amendment proposed

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 15 as amended - agreed to.

Clause 16 - amendment proposed -

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

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 16 as amended - agreed to.

Clause 17 - amendment proposed -

THAT, Clause 17 of the Bill be amended by—

(a) deleting the word “minor” appearing in the marginal note and substituting therefor the words “a child”; and

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

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 17 of the Bill be amended by—

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

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 17 as amended - agreed to.

Clause 18 - amendment proposed

THAT, Clause 18 of the Bill be amended by—

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

“Restrictions on the use of embryos”; and

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

“(1) A person shall not—

- (a) keep or use an embryo other than a human embryo;
- (b) place a human embryo in any animal;
- (c) transfer an embryo in a woman other than a human embryo;
- (d) keep or use a human embryo in circumstances prohibited under this Act or as prescribed by regulations;
- (e) replace any part of a human embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such replacement is for purposes of solving a medical problem; or
- (f) undertake any form of human cloning.”

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 18 of the Bill be amended by—

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

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

Proposed amendment dropped;

Clause 18 as amended - agreed to.

Clause 19 - amendment proposed -

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

- (a) inserting the word “informed” immediately after the words “without his” appearing in paragraph (b);
- (b) inserting the word “informed” immediately after the words “without her” appearing in paragraph (c);
- (c) deleting the words “place sperm and eggs or embryo in a woman” appearing in paragraph (e) and substituting therefor the words “transfer sperms or embryo into a womb”; and
- (d) inserting the following new paragraph immediately after paragraph (e)—

“(f) in the course of providing assisted reproductive treatment services for any woman, use the sperm of any man without the woman’s informed consent”.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed:

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

- (a) inserting the word “informed” immediately after the words “without his” appearing in paragraph (b);
- (b) inserting the word “informed” immediately after the words “without her” appearing in paragraph (c);
- (c) deleting the words “place sperm and eggs or embryo in a woman” appearing in paragraph (e) and substituting therefor the words “transfer sperms or embryo into a womb”; and
- (d) inserting the following new paragraph immediately after paragraph (e)—

“(f) in the course of providing assisted reproductive treatment services for any woman, use the sperm of any man without the woman’s informed consent”.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 19 as amended - agreed to.

Clause 20 - amendment proposed -

THAT, Clause 20 of the Bill be amended by—

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

“Posthumous reproduction”

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

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

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

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

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

(a) father was married to the woman at the time of the death of the woman;
and

(b) woman had given informed consent in writing”.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Amendment to amendment proposed;

THAT, the amendment be amended in the proposed sub-clause (2) by deleting the word “and” appearing after paragraph (a) and substituting therefor the word “or”.

(Hon. Millie Odhiambo)

Question of the amendment proposed;

Debate arising;

Question of the amendment to the amendment put and agreed to;

Question of the amendment as amended put and agreed to;

Further amendment proposed;

THAT, Clause 20 of the Bill be amended by—

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

“Posthumous reproduction”

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

- (c) deleting paragraph (b) of the renumbered sub- clause (1) and substituting therefor the following new paragraph (b) —
“(b) there was informed consent in writing by the man.”
- (d) inserting the following new sub-clause immediately after the renumbered sub-clause (1) —
“(2) Where the ovum of a woman or an embryo, the creation of which resulted from the ovum of that woman, was used after the death of that woman, that woman shall not be treated as the mother of the child born out of that ovum or embryo unless the —
 - (a) father was married to the woman at the time of the death of the woman; and
 - (b) woman had given informed consent in writing”.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 20 as amended - agreed to.

Clause 21 - amendment proposed -
THAT, Clause 21 of the Bill be amended by—

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;
THAT, Clause 21 of the Bill be amended by—

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 21 as amended - agreed to.

Clause 22 - amendment proposed -

THAT, the Bill be amended by deleting Clause 22.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, the Bill be amended by deleting Clause 22.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 22 - deleted.

Clause 23 - amendment proposed -

THAT, Clause 23 of the Bill be amended—

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

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

- (a) the ownership of the gametes;
- (b) the number of gametes to be implanted; and
- (c) what should be done with the gametes in case of—
 - (i) the death of any of the parties seeking assisted reproductive technology services;
 - (ii) incapacity of any of the parties seeking assisted reproductive technology services;
 - (iii) abandonment of the gametes;
 - (iv) dispute;
 - (v) divorce; or
 - (vi) separation.”

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

“(3) The assisted reproductive technology clinics and assisted reproductive technology banks shall not cryo preserve any human gametes without specific instructions and consent in writing from all the parties seeking assisted reproductive technology in respect of what should be done with the gametes in case of the circumstances set out in subsection 2(c)”; and

(c) in sub-clause (4) by deleting the words “implanting the embryos or” and substituting therefor the words, “transfer of”.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 23 of the Bill be amended—

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

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

(d) the ownership of the gametes;

(e) the number of gametes to be implanted; and

(f) what should be done with the gametes in case of—

(vii) the death of any of the parties seeking assisted reproductive technology services;

(viii) incapacity of any of the parties seeking assisted reproductive technology services;

(ix) abandonment of the gametes;

(x) dispute;

(xi) divorce; or

(xii) separation.”

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

“(3) The assisted reproductive technology clinics and assisted reproductive technology banks shall not cryo preserve any human gametes without specific instructions and consent in writing from all the parties seeking assisted reproductive technology in respect of what should be done with the gametes in case of the circumstances set out in subsection 2(c)”; and

(c) in sub-clause (4) by deleting the words “implanting the embryos or” and substituting therefor the words, “transfer of”.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 23 as amended - agreed to.

Clause 24 - agreed to.

Clause 25 - amendment proposed -

THAT, the Bill be amended by deleting Clause 25.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, the Bill be amended by deleting Clause 25.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 25 - deleted.

Clause 26 - amendment proposed

THAT, Clause 26 of the Bill be amended by—

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed:

THAT, Clause 26 of the Bill be amended by—

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 26 as amended - agreed to.

Clause 27 - Consideration of Clause 27 postponed pursuant to the provisions of Standing Order 133(10).

Clause 28 - amendment proposed -

THAT, Clause 28 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Parties to a marriage or commissioning parents” and substituting therefor the words “Intended parents”;
- (b) in sub-clause (3) by inserting the following new paragraphs immediately after paragraph (g)—
 - “(h) where the surrogate appoints a next of kin and provides the identity information of the appointed next of kin;
 - (i) where the intending parents appoint a guardian and provides the identity information of the appointed guardian;”
- (c) in sub-clause (4), by deleting the word “form” and substituting therefor the word “surrogacy agreement”;
- (d) by deleting sub-clause (5) and substituting therefor the following new sub-clause (5)—
 - “(5) The Council shall carry out pre-approval checks and shall satisfy itself that the—
 - (a) surrogate and the intended parent or parents have undergone appropriate medical assessments including an assessment on the health of the surrogate, pre-implantation genetic testing or diagnosis;

- (b) surrogate and the intended parent or parents have received appropriate counselling and legal advice about the implications of signing the surrogacy agreement and that a report by a counsellor reveals the positive welfare of a child who may be born as a result of an assisted reproduction procedure and the positive welfare of other children who may be affected by any such birth; and
 - (c) intended parents have taken out an appropriate insurance policy to cover the surrogate becoming ill, with protection under the policy starting no later than the day on which the first assisted reproduction procedure is to be carried out under the surrogacy agreement and ending five years after the surrogate has given birth.”
- (e) by inserting the following new sub-clause immediately after new sub-clause (5)—
 - “(6) A person may apply to the High Court for any necessary orders on matters relating to—
 - (a) the validity of a surrogacy agreement; or
 - (b) a dispute relating to parentage of a child born as a result of an assisted reproduction procedure.”
- (f) in sub-clause (7) by—
 - (i) deleting the word “parties to a marriage” and substituting therefor the words “intended parents”; and
 - (ii) deleting the words “in the process” and substituting therefor the words, “as a consequence”; and
- (g) by inserting the following new sub-clauses immediately after sub-clause (7)—
 - “(8) A surrogacy agreement may indicate the terms of the agreement including terms prohibiting the surrogate from—
 - (a) partaking alcohol;
 - (b) smoking;
 - (c) using unprescribed drugs; or
 - (d) engaging in dangerous activity that may affect the health or life of a child conceived through assisted reproduction technology.
- (9) The terms of the agreement under subsection (8) shall not be overly tasking or prejudicial to the surrogate.
- (10) The Cabinet Secretary shall make regulations for the better carrying out of the provisions of subsection (8).”
(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 28 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Parties to a marriage or commissioning parents” and substituting therefor the words “Intended parents”;
- (b) in sub-clause (3) by inserting the following new paragraphs immediately after paragraph (g)—
 - “(h) where the surrogate appoints a next of kin and provides the identity information of the appointed next of kin;
 - (i) where the intending parents appoint a guardian and provides the identity information of the appointed guardian;”
- (c) in sub-clause (4), by deleting the word “form” and substituting therefor the word “surrogacy agreement”;
- (d) by deleting sub-clause (5) and substituting therefor the following new sub-clause (5)—
 - “(5) The Council shall carry out pre-approval checks and shall satisfy itself that the—
 - (a) surrogate and the intended parent or parents have undergone appropriate medical assessments including an assessment on the health of the surrogate, pre-implantation genetic testing or diagnosis;
 - (b) surrogate and the intended parent or parents have received appropriate counselling and legal advice about the implications of signing the surrogacy agreement and that a report by a counsellor reveals the positive welfare of a child who may be born as a result of an assisted reproduction procedure and the positive welfare of other children who may be affected by any such birth; and
 - (c) intended parents have taken out an appropriate insurance policy to cover the surrogate becoming ill, with protection under the policy starting no later than the day on which the first assisted reproduction procedure is to be carried out under the surrogacy agreement and ending five years after the surrogate has given birth.”
- (e) by inserting the following new sub-clause immediately after new sub-clause (5)—
 - “(6) A person may apply to the High Court for any necessary orders on matters relating to—
 - (a) the validity of a surrogacy agreement; or
 - (b) a dispute relating to parentage of a child born as a result of an assisted reproduction procedure.”
- (f) in sub-clause (7) by—
 - (i) deleting the word “parties to a marriage” and substituting therefor the words “intended parents”; and
 - (ii) deleting the words “in the process” and substituting therefor the words, “as a consequence”; and
- (g) by inserting the following new sub-clauses immediately after sub-clause (7)—
 - “(8) A surrogacy agreement may indicate the terms of the agreement including terms prohibiting the surrogate from—
 - (a) partaking alcohol;
 - (b) smoking;
 - (c) using unprescribed drugs; or

- (d) engaging in dangerous activity that may affect the health or life of a child conceived through assisted reproduction technology.
- (9) The terms of the agreement under subsection (8) shall not be overly tasking or prejudicial to the surrogate.
- (10) The Cabinet Secretary shall make regulations for the better carrying out of the provisions of subsection (8)."

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 28 as amended - agreed to.

Clause 29 - amendment proposed -

THAT, Clause 29 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words "this Act or any other written law" appearing in paragraph (a) and substituting therefor the words "the Constitution"; and
- (b) deleting the word "implantation" appearing in paragraph (b) and substituting therefor the word "transfer"; and
- (c) deleting the word "commissioning" appearing in paragraph (c) and substituting therefor the word "intended".

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 29 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words "this Act or any other written law" appearing in paragraph (a) and substituting therefor the words "the Constitution"; and
- (b) deleting the word "implantation" appearing in paragraph (b) and substituting therefor the word "transfer"; and
- (c) deleting the word "commissioning" appearing in paragraph (c) and substituting therefor the word "intended".

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 29 as amended - agreed to.

Clause 30 - Consideration of Clause 27 postponed pursuant to the provisions of Standing Order 133(10).

Clause 31 - agreed to.

Clause 32 - amendment proposed -

THAT, Clause 32 of the Bill be amended by—

- (a) deleting sub-clause (1); and

- (b) inserting the words “except in the case of transfer of own gametes and embryos for personal use” immediately after the word, “Kenya” in sub-clause (2).

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 32 of the Bill be amended by—

- (a) deleting sub-clause (1); and
- (b) inserting the words “except in the case of transfer of own gametes and embryos for personal use” immediately after the word, “Kenya” in sub-clause (2).

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 32 as amended - agreed to.

Clause 33 - amendment proposed -

THAT, Clause 33 of the Bill be amended —

- (a) in the opening sentence, by deleting the word “Directorate” and substituting therefor the word “Council”;
- (b) renumbering the clause as sub-clause (1);
- (c) inserting the following new paragraph immediately after paragraph (e)—
- “*(f) the destruction or disposal by a registered assisted reproductive technology provider of any gametes or an embryo formed outside the body of a woman.*”; and
- (d) inserting the following new sub-clauses immediately after the re-numbered sub-clause (1)—
- “(2) The Council shall ensure that all information contained in the register is protected and maintained in a confidential manner in accordance with the relevant data protection and privacy laws.
- (3) The Council shall maintain all records, charts, forms, reports, consent letters and agreements.
- (4) All the documents under this Act shall be preserved for a period of twenty-five years or such longer period as may be prescribed:

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

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 33 of the Bill be amended —

(a) in the opening sentence, by deleting the word “Directorate” and substituting therefor the word “Council”;

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

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

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

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

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

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

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

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

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 33 as amended - agreed to.

Clause 34 - amendment proposed -

THAT, Clause 34 of the Bill be amended—

(a) in sub-clause (1) by —

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

- (ii) deleting the words “twenty-one” appearing in sub-clause (1) and substituting therefor the word “eighteen”;
- (b) in sub-clause (2) by deleting the word “Directorate” and substituting therefor the word “Council”; and
- (c) in sub-clause (3) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 34 of the Bill be amended—

- (a) in sub-clause (1) by —
 - (iii) deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
 - (iv) deleting the words “twenty-one” appearing in sub-clause (1) and substituting therefor the word “eighteen”;
- (b) in sub-clause (2) by deleting the word “Directorate” and substituting therefor the word “Council”; and
- (c) in sub-clause (3) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 34 as amended - agreed to.

Clause 35 - amendment proposed –

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 35 as amended - agreed to.

Clause 36 - amendment proposed -

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 36 as amended - agreed to.

Clause 37 - amendment proposed -

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 37 as amended - agreed to.

Clause 38 - amendment proposed -

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 38 as amended - agreed to.

Clause 39 - agreed to.

Clause 40 - amendment proposed –

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 40 as amended - agreed to.

Clause 41 - amendment proposed –

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 41 as amended - agreed to.

Clause 42 - amendment proposed –

THAT, Clause 42 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
- (b) in sub-clause (2) by—
- (i) inserting the word “authorized” immediately before the word “member” appearing in paragraph (b); and
 - (ii) deleting the words “unless authorized by the Directorate” appearing in paragraph (d).

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 42 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
- (b) in sub-clause (2) by—
 - (iii) inserting the word “authorized” immediately before the word “member” appearing in paragraph (b); and
 - (iv) deleting the words “unless authorized by the Directorate” appearing in paragraph (d).

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 42 as amended - agreed to.

Clause 43 - amendment proposed -

THAT, Clause 43 of the Bill be amended —

- (a) in the marginal note by inserting the words “and embryos” immediately before the word “gametes”;
- (b) by deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

(1) Every licence authorizing the storage of gametes shall have the condition that —

- (a) the gametes of a person shall be placed in storage only if received from that person or acquired from a person to whom a licence applies;
- (b) gametes which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (c) no gametes shall be kept in storage for longer than the statutory storage period;
- (d) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;

- (e) there is provision for adequate safety and security for the stored gametes;
- (f) the storage tubes are labelled with a unique identifier;
- (g) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (h) there is maintenance of a movement register of storage and retrieval of stored gametes; and
- (i) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored gamete and the identity of the donor.”

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

(1A). Every licence authorizing the storage of embryos shall have the condition that —

- (a) the resultant embryo taken from a person shall be placed in storage only if received from that person or acquired from a person to whom a license applies;
- (b) an embryo the creation of which has been brought about by assisted reproductive technology than in pursuance of the license shall be placed in storage only if acquired from a person to whom the license applies;
- (c) embryos which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (d) an embryo which is created but is not transferred to the surrogate or intended mother for any reason shall be stored and shall be given priority in the succeeding application for assisted reproductive technology;
- (e) no embryos shall be kept in storage for longer than the statutory storage period;
- (f) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (g) there is provision for adequate safety and security for the stored embryos;
- (h) the storage tubes are labelled with a unique identifier;
- (i) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (j) there is maintenance of a movement register of storage and retrieval of stored embryos; and
- (k) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored embryo and the identity of the donor.”

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

“(2) Where a donor or person wishing to store their gamete or embryo in a cryo bank through cryo-preservation, the cryo bank shall only store such gamete or embryo for as long as the owners of the gamete or embryo are alive or for a period not exceeding ten years, and at the end of this period the embryo or gamete shall be allowed to perish.”

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 43 of the Bill be amended —

- (a) in the marginal note by inserting the words “and embryos” immediately before the word “gametes”;
- (b) by deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—

(1) Every licence authorizing the storage of gametes shall have the condition that —

- (a) the gametes of a person shall be placed in storage only if received from that person or acquired from a person to whom a licence applies;
- (b) gametes which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (c) no gametes shall be kept in storage for longer than the statutory storage period;
- (d) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (e) there is provision for adequate safety and security for the stored gametes;
- (f) the storage tubes are labelled with a unique identifier;
- (g) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (h) there is maintenance of a movement register of storage and retrieval of stored gametes; and
- (i) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored gamete and the identity of the donor.”

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

(1A). Every licence authorizing the storage of embryos shall have the condition that —

- (a) the resultant embryo taken from a person shall be placed in storage only if received from that person or acquired from a person to whom a license applies;
- (b) an embryo the creation of which has been brought about by assisted reproductive technology than in pursuance of the license shall be placed in storage only if acquired from a person to whom the license applies;
- (c) embryos which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;

- (d) an embryo which is created but is not transferred to the surrogate or intended mother for any reason shall be stored and shall be given priority in the succeeding application for assisted reproductive technology;
- (e) no embryos shall be kept in storage for longer than the statutory storage period;
- (f) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (g) there is provision for adequate safety and security for the stored embryos;
- (h) the storage tubes are labelled with a unique identifier;
- (i) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (j) there is maintenance of a movement register of storage and retrieval of stored embryos; and
- (k) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored embryo and the identity of the donor.”

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

“(2) Where a donor or person wishing to store their gamete or embryo in a cryo bank through cryo-preservation, the cryo bank shall only store such gamete or embryo for as long as the owners of the gamete or embryo are alive or for a period not exceeding ten years, and at the end of this period the embryo or gamete shall be allowed to perish.”

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 43 as amended - agreed to.

Clause 44 - amendment proposed -

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 44 as amended - agreed to.

Clause 45 - amendment proposed -

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

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

Proposed amendment dropped;

Clause 45 as amended - agreed to.

Clause 46 - amendment proposed -

THAT, Clause 46 of the Bill be amended—

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

(b) in sub-clause (1) by—

(i) deleting paragraph (d);

(ii) deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) that the person responsible has committed a professional malpractice or has been removed from office for contravening the provisions of the Constitution or any other written law”;
and

(iii) inserting the words “or any other law and sentenced to imprisonment for a term exceeding six months” immediately after the word, “Act” appearing in paragraph (f).

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 46 of the Bill be amended—

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

(b) in sub-clause (1) by—

(iv) deleting paragraph (d);

(v) deleting paragraph (e) and substituting therefor the following new paragraph—

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 46 as amended - agreed to.

Clause 47 - amendment proposed –

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 47 as amended - agreed to.

Clause 48 - agreed to.

Clause 49 - amendment proposed –

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 49 as amended - agreed to.

Clause 50 - amendment proposed -

THAT, Clause 50 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words “knowingly or recklessly” appearing in sub-clause (1); and
- (b) inserting the following proviso immediately after paragraph (c)—
“and is liable on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both”.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

THAT, Clause 50 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words “knowingly or recklessly” appearing in sub-clause (1); and
- (b) inserting the following proviso immediately after paragraph (c)—
“and is liable on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both”.

(Hon. Peter Kaluma)

Proposed amendment dropped;

Clause 50 as amended - agreed to.

Clause 51 - agreed to.

Clause 52 - Consideration of Clause 52 postponed pursuant to the provisions of Standing Order 133(10).

New Clauses 19A, 19B, and 19C - proposed

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

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

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

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

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

Donation
gametes
embryos.
of
or

19B. (1) A cryo bank shall obtain—

(a) male gametes from males between twenty-one years of age and thirty-five years of age;

(b) oocytes from females between twenty-three years of age

and thirty-five years of age.

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

(19B.-Moved in amended for to delete the word 'or' appearing after paragraph (a))

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

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

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

(Chairperson, Departmental Committee on Health)

Motion made and question proposed-

THAT, New Clauses 19A, 19B and 19C be read a Second time.

(Chairperson, Departmental Committee on Health)

Debate arising;

Question put and agreed to.

Motion made and question proposed-

THAT, New Clauses 19A, 19B, and 19C be part of the Bill.

(Chairperson, Departmental Committee on Health)

Question put and agreed to.

Further amendment proposed;

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

Number of times one can donate gametes or embryos or be a surrogate. **19A.** (1) A person shall not donate their gametes or embryos more than ten times.

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

(3) A surrogate mother shall not enter into a surrogacy

agreement more than three times in her lifetime and shall be required to wait for two years between each birth to be eligible for another surrogacy agreement.

Donation
gametes
embryos.

of
or

19B. (1) A cryo bank shall obtain—

(a) male gametes from males between twenty-one years of age and thirty-five years of age; or

(b) oocytes from females between twenty-three years of age and thirty-five years of age.

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

Disposal
gametes.

of

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

(a) disposal of gametes after ten years of preservation;

(b) donation of gametes to other couples pursuing assistive reproductive technology; or

(c) the conduct of research on stem cells and zygotes that are not more than fourteen days old on a written application and where—

(iii) the applicant undertakes to document the research for record purposes; and

(iv) prior consent is obtained from the donor of the stem cells or zygotes.

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

New Clauses 19A, 19B, and 19C

- agreed to.

New Clause 24A - Proposed -

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

Pre-implantation
diagnosis or
testing.

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

(Chairperson, Departmental Committee on Health)

Motion made and question proposed-

THAT, New Clause 24A be read a Second time.

(Chairperson, Departmental Committee on Health)

Debate arising;

Question put and agreed to.

Motion made and question proposed-

THAT, New Clause 24A be part of the Bill.

(Chairperson, Departmental Committee on Health)

Question put and agreed to.

Further amendment proposed:

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

Pre-implantation
diagnosis or
testing.

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

New Clause 24A - agreed to.

New Clauses 27A and 27B - Proposed -

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

Intended
parents.

27A. An intended parent may use assisted reproductive technology where the intended parent—

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

Leave related
to surrogacy.

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

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

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

(Chairperson, Departmental Committee on Health)

Motion made and question proposed-

THAT, New Clauses 27A and 27B be read a Second time.

(Chairperson, Departmental Committee on Health)

Debate arising;

Question put and agreed to.

Motion made and question proposed-

THAT, New Clauses 27A and 27B be part of the Bill.

(Chairperson, Departmental Committee on Health)

Question put and agreed to.

Further amendment proposed:

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

Intended parents. **27A.** An intended parent may use assisted reproductive technology where the intended parent—

- (a) is certified by an assisted reproductive technology expert to be infertile or to have other medical conditions preventing natural conception;
- (b) is a Kenyan;
- (c) has attained the age of twenty-five years; and
- (d) is below the age of fifty-five years.”

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

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

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

New Clauses 27A and 27B - agreed to.

New Clauses 28A and 28B - Proposed -

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

Surrogacy
agreements by third
parties

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

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

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

Commercialization
of surrogacy.

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

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

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

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

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

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

(Chairperson, Departmental Committee on Health)

Motion made and question proposed-

THAT, New Clauses 28A and 28B be read a Second time.

(Chairperson, Departmental Committee on Health)

Debate arising;

Question put and agreed to.

Motion made and question proposed-

THAT, New Clauses 28A and 28B be part of the Bill.

(Chairperson, Departmental Committee on Health)

Question put and agreed to.

Further amendment proposed;

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

Surrogacy
agreements
by third parties.

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

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

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

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

Commercialization
of surrogacy.

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

- (a) undertake commercial surrogacy, provide commercial surrogacy or its related component procedures or services in any form or run a racket or an organized group to empanel or select surrogate mothers or use individual brokers or intermediaries to arrange for surrogate mothers and for surrogacy procedures at such clinics, laboratories or at any other place;

- (b) issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated, any advertisement in any manner regarding commercial surrogacy by any means, scientific or otherwise;
- (c) abandon or disown or exploit or cause to be abandoned, disowned or exploited in any form, the child or children born through surrogacy;
- (d) exploit or cause to be exploited the surrogate mother or the child born through surrogacy in any manner whatsoever;
- (e) sell human embryo or gametes for the purpose of surrogacy and run an agency, a racket or an organization for selling, purchasing or trading in human embryos or gametes for the purpose of surrogacy;
- (f) import or assist in the importation in any manner of human embryos or human gametes for surrogacy or for surrogacy procedures; and
- (g) conduct education in commercial surrogacy.

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

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

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

New Clauses 28A and 28B - agreed to.

New Clauses 30A - Proposed -

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

Surrogacy
proceedings to be
confidential.

30A. (1) A member or officer of a surrogacy clinic, and a person having any official duty under or being employed in the administration of this Act, shall regard and deal with all documents and information relating to the surrogacy or proposed surrogacy of any child, or to any such child, or to the intended parent of such child, as secret and confidential.

(2) A person in possession or control over any documents or records referred to in subsection (1), and who at any time communicates such information or anything therein contained, or makes any comments to any third person other than—

(a) the Court, the Council, the Cabinet Secretary, any other member or officer of the surrogacy clinic; or

(b) an advocate representing the applicant or the guardian *ad litem* appointed under this section, otherwise than for the purposes of this Act,

commits an offence and is liable, on conviction, to imprisonment for a term not exceeding two years, or to a fine not exceeding two hundred thousand shillings, or to both.

(3) Without prejudice to subsection (2), nothing contained in this section shall apply to the communication of any document or information in good faith in the interest of the child to whom the records relate or of the intended parent of the child.

(4) An officer or member of a surrogacy clinic, and a person engaged in any official duty as a servant or agent of any agency or institution charged with the administration of this section, shall not be required to produce before any Court any documents referred to in this section, or to divulge or communicate to any Court any information relating thereto, except as may be necessary for the purpose of—

(a) carrying into effect the provisions of this section; or

(b) assisting in the course of a prosecution of any person for any offence under this section.

(5) The Cabinet Secretary may, by order in writing, exempt any person by name or office from the provisions of subsection (2).

(Hon. Peter Kaluma)

Proposed amendment dropped.

New Clauses 32A – Proposed –

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

Prohibition on
certain
publications.

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

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

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

(Chairperson, Departmental Committee on Health)

Motion made and question proposed-

THAT, New Clause 32A be read a Second time.

(Chairperson, Departmental Committee on Health)

Debate arising;

Question put and agreed to.

Motion made and question proposed-

THAT, New Clause 32A be part of the Bill.

(Chairperson, Departmental Committee on Health)

Question put and agreed to.

Further amendment proposed:

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

Prohibition on
certain
publications

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

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

arrangement for another person that is intended or likely to counsel or procure a person to agree to act as a surrogate.

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

New Clauses 32A - agreed to.

New Clauses 51A - Proposed -

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

Transitional
provisions.

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

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

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

(Chairperson, Departmental Committee on Health)

Motion made and question proposed-

THAT, New Clause 51A be read a Second time.

(Chairperson, Departmental Committee on Health)

Debate arising;

Question put and agreed to.

Motion made and question proposed-

THAT, New Clause 51A be part of the Bill.

(Chairperson, Departmental Committee on Health)

Question put and agreed to.

Further amendment proposed;

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

Transitional
provisions.

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

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

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

New Clauses 51A - agreed to.

New Schedule - Proposed -

THAT, the Bill be amended by inserting the following new Schedule —

(s. 5(2))

SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

Meetings

1. (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The chairperson may call a special meeting of the Committee at any time the chairperson deems fit for expedient transaction of the business of the Committee.

(3) The notice for a meeting of the Committee shall be given in writing to each member of the Committee at least fourteen days before the day of the meeting.

(4) In the case of a special, or extra-ordinary meeting, a notice of less than fourteen days' notice shall be considered sufficient.

(5) Despite the provisions of subparagraph (2), the chairperson may, upon requisition in writing by at least two thirds of the members, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

(6) The notice to be given under subparagraph (2) and (3) shall state the—

- (a) venue and time of the meeting; and
- (b) agenda with sufficient details of business to be discussed at the meeting.

(7) The chairperson shall preside at every meeting of the Committee at which the chairperson is present but in the chairperson's absence, the members present shall elect from among themselves a chairperson who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(8) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by the concurrence of a majority of all the members present and voting at the meeting.

(9) The Committee may, with approval of the Cabinet Secretary, co-opt or invite any number of persons to act as advisors or consultants at any of its meetings or form such committees to perform such functions or duties of the Committee as the Committee shall determine.

(10) Subject to the provisions on quorum, no proceedings shall be invalid by reason only of a vacancy among the members of the Committee.

(11) Subject to the provisions of this Schedule, the Committee may determine its own procedure and the procedure for any committee of the Committee.

(12) The quorum for the meetings of the Committee shall be five members. Co-opted or invited persons shall not be counted in the quorum of the meetings of the Committee and shall not be eligible to vote.

Contracts and
instruments

2. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Institute by any person generally or specially authorized by the Institute for that purpose.

Disclosure of
Interest

3. (1) If a member of the Committee is present at a meeting of the Committee or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable before the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under paragraph (1) shall not, unless the Committee or committee otherwise directs, take part in any consideration or, discussion of, or vote on any question touching on the matter.

(3) A person who contravenes subparagraph (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months, or to both.

(4) No member of the Committee or officer, employee or agent of the Committee shall enter into a service contract or trade with the Committee.

(5) A disclosure of interest made under this

paragraph shall be recorded in the minutes of the meeting at which it is made.

Minutes

4. The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

(Chairperson, Departmental Committee on Health)

Motion made and question proposed-

THAT, the New Schedule be read a Second time.

(Chairperson, Departmental Committee on Health)

Debate arising;

Question put and agreed to.

Motion made and question proposed-

THAT, the New Schedule be the Schedule of the Bill.

(Chairperson, Departmental Committee on Health)

Question put and agreed to.

Further amendment proposed:

THAT, the Bill be amended by inserting the following new Schedule —

(s. 5(2))

SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

Meetings

1. (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The chairperson may call a special meeting of the Committee at any time the chairperson deems fit for expedient transaction of the business of the Committee.

(3) The notice for a meeting of the Committee shall be given in writing to each member of the Committee at least fourteen days before the day of the meeting.

(4) In the case of a special, or extra-ordinary meeting, a notice of less than fourteen days' notice shall be considered sufficient.

(5) Despite the provisions of subparagraph (2), the chairperson may, upon requisition in writing by at least two thirds of the members, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

(6) The notice to be given under subparagraph (2) and (3) shall state the—

- (a) venue and time of the meeting; and
- (b) agenda with sufficient details of business to be discussed at the meeting.

(7) The chairperson shall preside at every meeting of the Committee at which the chairperson is present but in the chairperson's absence, the members present shall elect from among themselves a chairperson who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(8) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by the concurrence of a majority of all the members present and voting at the meeting.

(9) The Committee may, with approval of the Cabinet Secretary, co-opt or invite any number of persons to act as advisors or consultants at any of its meetings or form such committees to perform such functions or duties of the Committee as the Committee shall determine.

(10) Subject to the provisions on quorum, no proceedings shall be invalid by reason only of a vacancy among the members of the Committee.

(11) Subject to the provisions of this Schedule, the Committee may determine its own procedure and the procedure for any committee of the Committee.

(12) The quorum for the meetings of the Committee shall be five members. Co-opted or invited persons shall not be counted in the quorum of the meetings of the Committee and shall not be eligible to vote.

Contracts and
instruments

2. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Institute by any person generally or specially authorized by the Institute for that purpose.

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Interest

3. (1) If a member of the Committee is present at a meeting of the Committee or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable before the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under paragraph (1) shall not, unless the Committee or committee otherwise directs, take part in any consideration or, discussion of, or vote on any question touching on the

matter.

(3) A person who contravenes subparagraph (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months, or to both.

(4) No member of the Committee or officer, employee or agent of the Committee shall enter into a service contract or trade with the Committee.

(5) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

Minutes

4. The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

(Hon. Peter Kaluma)

Proposed amendment dropped;

New Schedule

- agreed to.

Clause 2

- Consideration of Clause 2 postponed pursuant to the provisions of Standing Order 133(10).

Title

- amendment proposed

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

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question of the amendment put and agreed to;

Further amendment proposed;

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

(Hon. Peter Kaluma)

Proposed amendment dropped;

Long Title as amended

- agreed to.

Clause 1

- agreed to.

Progress on the Bill to be reported.

8. HOUSE RESUMED - the Deputy Speaker in the Chair

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

Progress on the Bill reported;

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the Assisted Reproductive Technology Bill (National Assembly Bill No. 61 of 2022) except Clauses 2, 8, 14, 27, 30 and 52, and its approval thereof with amendments, and seek leave to sit again.

(Hon. Millie Odhiambo)

Question deferred.

And the time being five minutes past One O'clock, the Deputy Speaker adjourned the House without pursuant to the Standing Orders.

9. HOUSE ROSE – at five minutes past One O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, 8th October 2025 at 2:30pm

--X--