



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, MAY 02, 2024

1. The House assembled at Thirty Minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker issued the following Communication—

On Appointment of Members to a Mediation Committee on the Water (Amendment) Bill, 2023

“**Honourable Members**, You may recall that on Tuesday, 30th April 2024, the House **rejected** the report of the Committee of the whole House on the Senate amendments to the Water (Amendment) Bill (National Assembly Bill No. 33 of 2023).

Honourable Members, the import of this essentially remits the Bill to a Mediation Committee in line with Article 112 (2) of the Constitution and Standing Order 149(1). Article 113 of the Constitution requires that whenever a Bill is referred to a mediation committee, the Speakers of the Houses of Parliament shall appoint an equal number of Members from both Houses to attempt to develop a version of the Bill for consideration by the Houses of Parliament.

In this regard, **Honourable Members**, having consulted with the Leader of the Majority Party and the Leader of the Minority Party, I have appointed the following Members to represent the National Assembly in the Mediation Committee to consider the said Bill –

- (1) The Hon. Kangogo Bowen, MP;
- (2) The Hon. Maisori Kitayama, MP;
- (3) The Hon. Muthama Stanley, MP;
- (4) The Hon. Dorothy Ikiara, MP;
- (5) The Hon. Paul Nzengu, MP;
- (6) The Hon. Hussein Weytan, MP; and
- (7) The Hon. Gertrude Mbeyu, MP.

Honourable Members, the aforementioned Members will await the appointment of Senators to the Mediation Committee for the Committee to be fully constituted for purposes of commencing the mediation process. Once I receive a Message from the Senate to the effect, I will convey the same to the House.

Thereafter, the Mediation Committee will embark on an attempt to develop mediated version of the Bill in accordance with Article 113 of the Constitution. **The House is accordingly guided. I thank you!”**

5. MESSAGES

The Speaker conveyed the following Message from President—

Referral by H.E. the President of the Penal Code (Amendment) Bill, 2022

Honourable Members, you may recall that on 20th March 2023, the National Assembly passed the Penal Code (Amendment) Bill (National Assembly Bill No. 56 of 2022) which was sponsored by the Member for Nakuru Town East, the Hon. David Gikaria, MP. The Bill sought to repeal section 182 of the Penal Code Cap. 63. Following its passage, I presented the Bill for assent to H.E. the President in accordance with the provisions of Article 115 of the Constitution.

Honourable Members, I wish to convey to the House that I have since received a Memorandum from H.E. the President referring the Bill back to the House for reconsideration in accordance with the provisions of Article 115 of the Constitution. In the Memorandum, H.E. the President has expressed reservations on Clause 2 of the Bill and notes, *inter alia*—

- (i) **That**, were the Bill to be assented to in its present form without offering alternative offences or sanctions, the Bill will effectively render certain indecent, immoral or disruptive public conduct to be acceptable;
- (ii) **That**, the repeal of section 182 shall encourage the commission of the acts covered under section 182 and allow persons to freely behave in a disorderly or indecent manner in a public place and conduct themselves in a manner likely to cause a breach of the peace; and
- (iii) **That**, the repeal undermines the credibility of criminal law and may promote public disorder and disobedience. Further, a blanket decriminalization of conduct that a majority considers delinquent, undermines the reputation of the law as a reliable moral authority that should be obeyed.

Consequently, H.E. the President recommends deletion of the said Clause of the Bill, which as a matter of fact, is the primary content of the Bill.

Honourable Members, Standing Order 154(2) requires the House to consider the President's reservations **within twenty-one (21) days** upon receipt of a Memorandum. In this regard, the Memorandum from the President now stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is required to table its report soonest to allow the House to consider the President's reservations within the said timelines.

Honourable Members, may I at this point, remind the House of the *Speaker's Communication* of 28th July 2015 concerning the consideration of the President's reservations to a Bill and amendments thereto. I particularly draw your attention to the guidance, that the voting threshold for the passage of amendments proposed by a Committee or an individual Member that have the effect of **fully accommodating** the President's reservations is **a simple majority** as contemplated under Article 122(1) of the Constitution as read together with Article 115(2)(a).

On the other hand, an amendment that **does not fully accommodate** the President's reservations, or indeed one that has the effect of a total override of the President's reservations, including negating his proposed text, would require a **two-thirds voting** threshold to be passed in keeping with the provisions of Article 115(4) of the Constitution.

In conclusion, **Honourable Members**, I hereby direct the Clerk to circulate the Memorandum from H.E. the President to all Members so that they familiarize themselves with its contents. **I thank you!**

6. PAPERS

The following Papers were laid on the Table of the House-

- (i) The following Statutory Instruments from the Ministry of Mining, Blue Economy and Maritime Affairs:-
 - a) Legal Notice No. 40 of 2024 relating to the Mining (Mine Support Services) (Amendment) Regulations and the explanatory memorandum;
 - b) Legal Notice No. 41 of 2024 relating to the Mining (Dealings in Minerals) (Amendment) Regulations and the explanatory memorandum;
 - c) Legal Notice No. 42 of 2024 relating to the Mining (Gemstone Identification and Value Addition) (Fees) Regulations and the explanatory memorandum;
 - d) Legal Notice No. 43 of 2024 relating to the Mining (Licence and Permit) (Amendment) Regulations and the explanatory memorandum;
- (ii) Legal Notice No. 69 of 2024 relating to the Valuers (Forms and Fees) (Amendment) Rules, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development;
- (iii) Legal Notice No. 70 of 2024 relating to the Survey (Electronic Cadastre Transactions) (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development;
- (iv) Legal Notice No. 71 of 2024 relating to the Survey (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development;
- (v) Legal Notice No. 72 of 2024 relating to the Physical and Land Use Planning (Planning Fees (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development;
- (vi) Legal Notice No. 73 of 2024 relating to the Community Land (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development;
- (vii) Legal Notice No. 74 of 2024 relating to the Land (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development;
- (viii) Legal Notice No. 75 of 2024 relating to the Land Registration (Revocation) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development;
- (ix) Legal Notice No. 76 of 2024 relating to the Land Adjudication (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development;
- (x) Legal Notice No. 77 of 2024 relating to the Land Registration (General) (Amendment) Regulations, 2024 and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development; and
- (xi) Reports of the Auditor-General and Financial Statements for the year ended 30th June 2023 and the certificates therein in respect of:
 - a) Kenya Law Reform Commission;
 - b) National Crime Research Centre;
 - c) National Council for Law Reporting;
 - d) Revenue Accountability Statements – Kenya Revenue Authority; and
 - e) Council of Legal Education Staff Car Loan and Mortgage Scheme.

(Deputy Leader of the Majority Party)

- (xii) Report of the Kenya Delegation to the Extra-Ordinary Session of the Sixth Parliament of the Pan-African Parliament (PAP) held in Midrand, South Africa from 20th to 27th March 2024.
(Hon. Rahab Mukami – Member of the Delegation)
- (xiii) Report of the Departmental Committee on Tourism and Wildlife on the Budget Implementation Monitoring for FY 2022/2023 and Half Year 2023/2024 for the following State Departments –
- a) State Department for Tourism; and
 - b) State Department for Wildlife.
- (xiv) Report of the Departmental Committee on Tourism and Wildlife on its participation in the International Tourism Bourse in Berlin, Germany from 5th to 7th March 2024.
(Chairperson, Departmental Committee on Tourism & Wildlife)
- (xv) Supplementary Estimates II for the FY 2023/2024 from the National Treasury and Economic Planning and the following accompanying documents:
- a) Financial Year 2023/2024 Supplementary Estimates No. II (Programme Based Budget)
 - b) Financial Year 2023/2024 Supplementary Estimates No. II (Recurrent Estimates)
 - c) Financial Year 2023/2024 Supplementary Estimates No. II (Development Estimates Volume I, II and III) and;
 - d) Statement on the Financial Year 2023/2024 Supplementary Estimates No. II

(Leader of the Majority Party)

7. NOTICES OF MOTION

The following Notices of Motion were given –

- a) **THAT**, this House **adopts** the Report of the Kenya Delegation to the Extraordinary Session of the Sixth Parliament of the Pan-African Parliament (PAP) held in Midrand, South Africa from 20th to 27th March 2024, *laid on the Table of the House on Thursday, 2nd May 2024.*
(Hon. Rahab Mukami – Member of the Delegation)
- b) **THAT**, this House **adopts** the Report of the Departmental Committee on Tourism and Wildlife on the Budget Implementation Monitoring for FY 2022/2023 and Half Year 2023/2024 for the State Department for Tourism; and the State Department for Wildlife, *laid on the Table of the House on Thursday, 2nd May 2024.*
(Chairperson, Departmental Committee on Tourism & Wildlife)

8. REQUESTS FOR STATEMENTS PURSUANT TO STANDING ORDER 44(2)(c)

Pursuant to the provisions of Standing Order 44(2)(c):

- (i) The Member for Tana River County (Hon. Amina Dika) requested for a Statement from the Chairperson of the Departmental Committee on Blue Economy, Water & Irrigation regarding harvesting of stormwater in Tana River County;
- (ii) The Member for Malindi (Hon. Amina Mnyazi) requested for a Statement from the Chairperson of the Departmental Committee on Transport & Infrastructure regarding the status of issuance of the Seafarers' Identity Document (SID);
- (iii) Nominated Member (Hon. Irene Mayaka) requested for a Statement from the Chairperson of the Departmental Committee on Transport & Infrastructure regarding the state of infrastructure at Jomo Kenyatta International Airport (JKIA);

- (iv) The Member for Butere (Hon. Tindi Mwale) requested for a Statement from the Chairperson of the Departmental Committee on Transport & Infrastructure regarding the potential infringement of the right to privacy by the National Transport and Safety Authority (NTSA);
- (v) The Member for Kigumo (Hon. Joseph Munyoro) requested for a Statement from the Chairperson of the Departmental Committee on Transport & Infrastructure regarding the status of *Mau Mau* Roads in Kigumo Constituency;
- (vi) The Member for Vihiga County (Hon. Beatrice Adagala) requested for a Statement from the Chairperson of the Departmental Committee on Education regarding the preparedness of schools to deal with the effects of heavy rains and associated challenges;
- (vii) The Member for Igembe Central (Hon. Daniel Karitho) requested for a Statement from the from the Chairperson Departmental Committee on Agriculture & Livestock regarding the exploitation of farmers by cartels at JKIA;
- (viii) The Member for Marakwet West (Hon. Timothy Toroitich) requested for a Statement from the Chairperson of the Departmental Committee on Lands regarding the operationalization of the Elgeyo Marakwet County land registry;
- (ix) The Member for West Pokot County (Hon. Rael Kasiwai) requested for a Statement from the Chairperson of the Departmental Committee on Transport & Infrastructure regarding the state of the *Kapenguria-Lodwar* road;
- (x) The Member for Mbeere North (Hon. Geoffrey Ruku) requested for a Statement from the Chairperson of the Departmental Committee on Trade, Industry & Cooperatives regarding measures being taken to boost the manufacturing sector in the country;
and,
- (xi) The Member for Kitutu Masaba (Hon. Clive Gisairo) requested for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the status of the Kenya Digital Economy Acceleration Project.

9. STATEMENT PURSUANT TO STANDING ORDER 43

Pursuant to the provisions of Standing Order 43, the Member for Turkana Central (Hon. Joseph Namuar) made a General Statement regarding claims of the abduction of a Mr. Sammy Ekitela of ID No. 32872871 in Lodwar Municipality, Turkana Central.

10. RESPONSE TO STATEMENTS PURSUANT TO STANDING ORDER 44(2)(c)

Pursuant to the provisions of Standing Order 44(2)(c):

- (i) The Chairperson of the Departmental Committee on Education issued a response to a Statement requested by the Member for Baringo Central (Hon. Joshua Kandie) regarding delayed salaries and understaffing of non-teaching personnel in special needs schools;
- (ii) The Chairperson of the Departmental Committee on Administration & Internal Security issued a response to a Statement requested by the Member for Eldas (Hon. Owen Baya) regarding withholding of academic certificates by school heads in primary and secondary schools;

(iii) The Chairperson of the Departmental Committee on Blue Economy, Water & Irrigation issued a progress report regarding the status of four statements regarding flooding in the country; and

(iv) The Chairperson, Departmental Committee on Administration and Internal Security issued a response to a Statement requested by the Member for Kilifi County (Hon. Getrude Mbeyu) regarding the erroneous classification of *Mnazi* as an alcoholic drink in the crackdown on illicit brews in Kilifi County.

11. STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)

Pursuant to the provisions of Standing Order 44(2)(a), the Leader of Majority Party issued a Statement regarding the business of the House for the week commencing Tuesday, 4th June 2024.

12. REORGANISATION OF BUSINESS PURSUANT TO STANDING ORDER 40

Pursuant to Standing Order 40(2), the Speaker reordered the sequence of proceedings as follows—

(i) Under Order No. 11 (*Committee of the Whole House*): Consideration of the National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023) was be deferred.

(ii) Consideration of **Order No. 13** (*Motion–Appointment of Members to the Select Committee on investigation into the proposed dismissal of Hon. Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development*) to be taken before consideration of **Order No. 12** (*Motion–Ratification of the Multilateral Convention to implement Tax Treaty Related Measures to prevent Base Erosion and Profit Shifting (MLI)*).

13. MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL (SENATE BILL NO. 9 OF 2022)

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 County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022).

(Chairperson, Departmental Committee on Trade, Industry & Cooperatives)

Question put and agreed to.

Motion made and question proposed;

THAT, the County Licensing (Uniform Procedures) Bill (Senate Bill No. 9 of 2022) be now read a Third time.

(Chairperson, Departmental Committee on Trade, Industry & Cooperatives)

There being no Member wishing to contribute;

Question put and agreed to.

Bill read a Third time and passed.

14. THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2024)

(The Hon. Sabina Chege)

Order for First Reading Read;

Bill Read a First Time and committed to the relevant Departmental Committee pursuant to Standing Order 127(1).

15. THE UNIVERSITIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 16 OF 2024)

(The Hon. Owen Baya)

Order for First Reading Read;

Bill Read a First Time and committed to the relevant Departmental Committee pursuant to Standing Order 127(1).

16. COMMITTEE OF WHOLE HOUSE

IN THE COMMITTEE

Sixth Chairperson of Committees in the Chair

The Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 10 of 2024)

Clause 3 - amendment proposed;

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

Amendment of section 6 of Cap. 7C. **3.** The principal Act is amended by deleting section 6 and substituting the following new section—

Qualification for appointment as chairperson or member of the Commission. **6.** A person is qualified for appointment as a chairperson or member of the Commission if the person—

- (a) holds a degree from a recognized university;
- (b) has proven relevant experience in any of the following fields—
 - (i) electoral matters;
 - (ii) management;
 - (iii) finance;
 - (iv) governance;
 - (v) public administration;
 - (vi) law;
 - (vii) information and communication technology; and
 - (viii) accounting.
- (c) meets the requirements of Chapter Six of the Constitution.

Question of the amendment proposed,

Proposed amendment withdrawn;

Clause 3 - agreed to.

Clause 4 - agreed to.

Clause 5 - amendment proposed;

THAT, clause 5 of the Bill be amended by deleting the proposed new subsection (4) and substituting therefor the following subsection—

“(4) The secretary shall hold office for a term of four years and is eligible for re-appointment for one further term of four years.”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed,

Debate arising;

Question put and agreed to

Further amendment proposed –

THAT, Clause 5 of the Bill be amended by deleting the proposed new subsection (4) and substituting therefor the following new subsection—

(4) The secretary shall hold office for a term of six years and shall not be eligible for re-appointment.

(Hon. Zachary Thuku)

Further amendment withdrawn;

Clause 5 - as amended agreed to.

Clause 6 - amendment proposed;

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

Insertion of a new section 24A in Cap. 7C. **6.** The principal Act is amended by inserting the following new section immediately after section 24—

Review of conduct of general election. **24A.(1)** The Commission shall, after every general election, review its operations and make the necessary changes required to make its operations more efficient, effective, transparent and accountable.

(2) The review shall be completed within eighteen months after every general election and the Commission shall publish the report in the Gazette and submit the report to Parliament.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed,

Debate arising;

Question put and agreed to

Further amendment proposed –

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

Insertion
of new
section
24A in
Cap. 7.

6. The principal Act is amended inserting the following new section immediately after section 24—

Review
of
conduct
of
general
election.

24A. (1) The Commission shall appoint an independent committee to review the operations of the Commission after a general election.

(2) The independent committee under subsection (1) shall consist of—

(a) two persons nominated by the Parliamentary Service Commission representing the majority party or coalition of parties and minority party or coalition of parties;

(b) three persons nominated by the Political Parties Liaison Committee of whom—

(i) one shall be from a party other than a parliamentary party or coalition of parties;

(ii) one shall be from a parliamentary party of coalition of parties forming the national government;

(iii) one shall be from a parliamentary party or coalition of parties not forming the national government;

(c) two persons nominated by the Association of Professional Societies in East Africa;

(d) two persons nominated by the Inter-Religious Council of Kenya.

(3) A person is qualified for appointment as a member of the independent committee under subsection (1) if the person—

(a) is a citizen of Kenya;

(b) holds a degree from a university recognized in Kenya; and

(c) meets the requirements of Chapter Six of the Constitution.

(4) The respective nominating bodies under subsection (2) shall, within three months after a general election, submit the names of their nominees to Commission for appointment.

(5) The review shall be completed within one year after a general election and the independent committee shall submit the report to the Commission.

(6) The Commission shall, within seven days of receipt of the report, publish the report in the *Gazette* and submit the report to Parliament.

(7) The Commission shall provide the secretariat services and facilities required by the independent committee in the performance of its functions.

(Hon. Zachary Thuku)

Further amendment withdrawn;

Clause 6 as amended - agreed to.

Clause 7 - amendment proposed;

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

Insertion
of a new
PART
IIIA in
Cap. 7C.

7. The principal Act is amended by inserting the following new Part immediately after section 24—

PART IIIA—DELIMITATION OF ELECTORAL UNITS

Procedure for delimitation of electoral boundaries.

24B. (1) The Commission shall discharge its mandate of the delimitation of boundaries of constituencies and wards in accordance with the Constitution, this Act and any other law.

(2) Subject to the Constitution, matters to be addressed in the delimitation of electoral boundaries are—

(a) review of the names and boundaries of constituencies;

(b) review of the number, names and boundaries of wards;

(c) re-distribution of wards affected by any changes in the boundaries of constituencies; and

(d) ensuring that the number of inhabitants in each constituency and ward is as nearly as possible, equal to the population quota as provided for by Article 89(5) of the Constitution and that such a process—

(i) allows for variation of margin of not more than the limits provided under Article 89(6) of the Constitution in relation to cities, sparsely populated areas and other areas;

- (ii) takes into account the provisions of Article 89(7)(b) of the Constitution that provides for the progressive realization of the requirement that the number of inhabitants in each constituency and ward to be as nearly as possible, equal to the population quota for the purposes of the each review;
- (iii) is subject to the use of enumerated national census figures.

(3) The Commission shall prepare and publish a preliminary report outlining—

- (a) the proposed delimitation of boundaries for constituencies and wards; and
- (b) the specific geographical demographical details relating to such delimitation; and

(4) The Commission shall ensure that the preliminary report is made available to the public for a period of thirty days and invite representations from the public on the proposals contained in the report during that period.

(5) Upon the expiry of the period provided in subsection (4), the Commission shall, within fourteen days, review the proposed delimitation of boundaries considering the views received and submit the revised preliminary report to the Parliamentary Committee.

(6) The Parliamentary Committee shall, within fourteen days of receipt of the revised preliminary report, table the report in the National Assembly together with its recommendations.

(7) The National Assembly shall, within fourteen days of the tabling of the revised preliminary report, consider the report and forward its recommendations to the Commission.

(8) Within fourteen days of the expiry of the period provided for in subsection (7), the Commission shall upon receipt and considerations of the National Assembly and representations from the public, prepare the final report for publication in the Gazette.

(9) Where the National Assembly fails to make recommendations within the period specified in subsection (7), the Commission shall publish its report in accordance with subsection (8).

(10) A person who, being responsible for the publication in the Gazette of the final report submitted under this subsection fails to publish the report within the time required by the Commission after the report has been submitted to that person, commits an offence and is liable to imprisonment for a term of one year.

(11) Notwithstanding any other written law, where the final report is not published in accordance with the provisions of subsection (9) the Commission shall, within seven days of the submission of the said report, cause the report to be published in at least two dailies of national circulation and such publication shall have effect as if it were done in the Gazette.

(12) Subject to this section, the provisions set out in the Fifth Schedule shall apply during the process of delimitation of electoral units.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed,

Debate arising;

Question put and agreed to;

Clause 7 as amended - agreed to.

Clause 8 - amendment proposed -

THAT, Clause 8 of the Bill be amended in paragraph (a)—

- (a) by renumbering subparagraphs (i), (ii) and (iii) as subparagraphs (ii), (iii) and (iv);
- (b) by inserting the following new subparagraph immediately before subparagraph (ii)—

- (i) by deleting the word “seven” appearing immediately after the words “consisting of” appearing in sub-paragraph (1) and substituting therefor the word “nine”;
- (c) by deleting subparagraph (ii) and substituting therefor the following new subparagraph—
 - (ii) by deleting sub-paragraph (2) and substituting therefor the following new sub-paragraph—
 - “(2) The selection panel shall consist of—
 - (a) two persons nominated by the Parliamentary Service Commission, representing the majority party or coalition of parties and the minority party or coalition of parties;
 - (b) three persons nominated by the Political Parties Liaison Committee of whom—
 - (i) one shall be from a party other than a parliamentary party or coalition of parties;
 - (ii) one shall be from the majority party or coalition of parties;
 - (iii) one shall be from the minority party or coalition of parties;
 - (c) one person nominated by the Law Society of Kenya;
 - (d) one person nominated by the Institute of Certified Public Accountants of Kenya; and
 - (e) two persons nominated by the Inter-religious Council of Kenya.
- (d) by inserting the following new subparagraph immediately after subparagraph (iv)—
 - (v) by inserting the following new subparagraph immediately after subparagraph (6)—
 - “(7) The Parliamentary Service Commission shall provide for and meet the expenditure of the selection panel.”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed,

Debate arising;

Further amendment proposed –

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

Amendment of the First Schedule in Cap. 7C. **8.** The First Schedule to the Principal Act is amended—

- (a) in paragraph 1—
 - (i) by deleting the word “seven” appearing immediately after the words “consisting of” appearing in sub-paragraph (1) and substituting therefor the word “nine”;
 - (ii) by deleting sub-paragraph (2) and substituting therefor the following new sub-paragraph—

(2) The selection panel shall consist of—

(a) two persons nominated by the Parliamentary Service Commission representing the majority party or coalition of parties and minority party or coalition of parties;

(b) three parties nominated by Political Parties Liaison Committee of whom—

(i) one shall be from a party other than a parliamentary party or coalition of parties;

(ii) one shall be from a parliamentary party of coalition of parties forming the national government;

(iii) one shall be from a parliamentary party or coalition of parties not forming the national government;

(c) two persons nominated by the Association of Professional Societies in East Africa;

(d) two persons nominated by the Inter-Religious Council of Kenya.

(iii) inserting the following new subparagraphs immediately after subparagraph (2A)—

(2B) The respective nominating bodies shall select the nominees for appointment through a competitive and transparent process.

(2B) In nominating the persons under paragraph (2), the respective nominating bodies shall ensure that not more than two-thirds of the nominees are of the same gender.

(iv) in subparagraph (3), by deleting the words “sub-paragraphs (2)(b) and (c)” and substituting therefor the words “sub-paragraphs (2)(b), (c) and (d)”;

(b) by deleting paragraph 6 and substituting therefor the following new paragraph—

6. Dissolution of selection panel

(1) The selection panel shall finalize the recruitment exercise within ninety days of its appointment and forward the names of the nominees to the President and shall thereafter stand dissolved.

(Hon. Zachary Thuku)

Further amendment withdrawn;

Question put and agreed to;

Clause 8 as amended - agreed to.

Clauses 9 and 10 - agreed to.

Clause 11 - amendment proposed -

THAT, the Bill be amended by deleting Clause 11 and substituting therefor the following new Clause—

Saving
and
transition.

11. Upon the commencement of this Act—

- (a) the selection panel existing immediately before the commencement of this Act shall stand dissolved but—
 - (i) the members of that panel may be nominated to serve in any subsequent panel; and
 - (ii) nothing done by that panel for purposes of executing its functions shall, if done in good faith, render any member of that panel personally liable for any action, claim or demand
- (b) The respective nominating bodies under paragraph 1(2)(b), (c), (d) and (e) of the First Schedule to the principal Act shall within fourteen days from the date of commencement of this Act submit the names of their nominees to the Parliamentary Service Commission for transmission to the President for appointment to the selection panel under the Act;
- (c) the President shall, within seven days of receipt of the names of the nominees under paragraph 1(2) of the First Schedule to the principal Act from the Parliamentary Service Commission, appoint a selection panel for the purpose of appointment of the chairperson and members of the Commission; and
- (d) a person holding the office of the secretary of the Independent Electoral and Boundaries Commission shall continue in office for the remainder of the unexpired period of their term.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed,

Debate arising;

Question put and agreed to;

Clause 11 as amended - agreed to.

New Clauses

New Clause 7A proposed -

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 7—

Repeal of section 36 of Cap, 7C. **7A.** The principal Act is amended by repealing section 36.

Motion made and Question proposed -

THAT, the New Clause 7A be read a Second Time;

Debate arising;

Question put and agreed to.

Motion made and question proposed -

THAT, New Clause 7A be part of the Bill.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question put and agreed to;

New Clause 7A - agreed to.

Clause 2 - amendment proposed;

THAT, Clause 2 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)—

“(f) by inserting the following new definition in proper alphabetical sequence—

“parliamentary party” means a party or coalition of parties consisting of not less than five percent of the membership of the National Assembly;

(Chairperson, Departmental Committee on Justice and Legal Affairs)

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.

17. **HOUSE RESUMED** - the Hon. Speaker in the Chair**The Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 10 of 2024)**

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report.
(*Leader of the Majority Party*)

Question put and agreed to.

Motion made and Question proposed –

THAT, the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 10 of 2024) be now read a Third Time
(*Leader of the Majority Party*)

Question put and agreed to;

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

18. **MOTION – APPOINTMENT OF MEMBERS TO THE SELECT COMMITTEE ON INVESTIGATION INTO THE PROPOSED DISMISSAL OF HON. MITHIKA LINTURI AS THE CABINET SECRETARY FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT**

Motion made and Question proposed –

THAT, in furtherance of the **resolution** of the House passed today **2nd May 2024** on the Special Motion for the dismissal of Hon. Francis Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development and pursuant to the provisions of Article 152(7)(a) and Standing Order 66(5)(b), this House approves the appointment of the following Members to the Select Committee to investigate the grounds contained in the resolution of the House–

- (i) The Hon. Naomi Jillo Waqo, CBS, M.P.
- (ii) The Hon. Robert Mbui, CBS, M.P.
- (iii) The Hon. Rachael Nyamai, CBS, M.P.
- (iv) The Hon. Samuel Kiprono Chepkonga, M.P
- (v) The Hon. George Gitonga Murungara, M.P.
- (vi) The Hon. T. J. Kajwang, M.P.
- (vii) The Hon. Moses Malulu Injendi, M.P.
- (viii) The Hon. Jane Njeri Maina, M.P.
- (ix) The Hon. Kassim Sawa Tandaza, M.P.
- (x) The Hon. Catherine Omanyo, M.P.
- (xi) The Hon. Yusuf M. Farah, M.P.

(*Leader of the Majority Party*)

Debate arising;

Question put and agreed to.

GUIDANCE BY THE SPEAKER

The Speaker issued the following guide:

Operations of the Select Committee on the Dismissal of Hon. Franklin Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development

“Honourable Members, Following the resolution of the House to establish a Select Committee to investigate the allegations contained in the Special Motion for the dismissal of the Hon. Franklin Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development, I wish to guide the House on the process that will follow now that the Select Committee has just been appointed.

Honourable Members, As you are aware, the Committee will be involved in **Quasi-Judicial proceedings.** In this regard it must operate within the requirements of the Constitution, relevant statutes and the provisions of our Standing Orders. For the avoidance of doubt, I wish to guide the Select Committee that the Committee should hold its first meeting **today at 6.00pm.**

During this meeting, the Committee is expected, among others, to elect a Chairperson and Vice-Chairperson from amongst its Members, agree on its calendar of events given the strict timeline applicable to the process, and adopt Rules on the Conduct of its investigation. The Clerk of the National Assembly has made arrangements for the meeting to be held at **Committee Room 9.**

Honourable Members, in its investigation, the Committee is expected to hear the Cabinet Secretary either in person, through a representative or both in person and through a representative. My predecessor, the Hon. Justin Muturi has previously guided this House that proceedings relating to the removal of persons from office are quasi-judicial in nature and require **judicious attention and sobriety.**

I have instructed the Clerk of the National Assembly to formulate draft Rules on the Conduct of its Investigation which accord with existing constitutional and statutory provisions on the principles of **natural justice, fair hearing and fair administrative action.** I urge the Committee to consider and adopt these Rules to guide its operations. The Committee should prioritize affording **a fair and adequate hearing** to the Cabinet Secretary and any relevant witnesses. Additionally, the Committee must always remain decorous and civil towards the parties that appear before it.

Honourable Members, In line with the requirements of Article 152(7)(b) of the Constitution, I wish to reiterate that the Committee should submit its report to the House within ten days of its formation. Computation of the timeline in accordance with the provisions of Article 259(5) and 259(7) of the Constitution requires the Committee to submit its report on or before **Monday, 13th May, 2024.** Thereafter, **I shall invoke the provisions of Standing Order 66(3) and summon the House for a Special Sitting** for the tabling of the Report and disposal of the matter in accordance with the provisions of Article 152(9) of the Constitution. The Select Committee and the House stand guided. **I thank you!”**

19. **MOTION- RATIFICATION OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING (MLI)**

Motion made and Question proposed –

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on its consideration of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, laid on the Table of the House on Tuesday, 30th April 2024, and under the

provisions of section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, subject to reservations on Article 5 (Application of Methods for Elimination of Double Taxation) and Article 16 (Mutual Agreement Procedure).

(Chairperson, Departmental Committee on Finance & National Planning)

Debate arising;

(Change of Chair from the Hon. Speaker of Committees to the Third Chairperson of Committees)

Rising in her place on a Point of Order pursuant to the provisions of Standing Order 35, the Member for Migori County (Hon. Fatuma Mohamed) objected that there was no quorum present in the House;

And the Chairperson having ascertained the claim, ordered that the Division Bell be rung for ten (10) minutes;

There being no Quorum present at the expiry of the ten minutes, the Third Chairperson adjourned the House without Question put pursuant to Standing Order 35(2)(a).

And the time being Eighteen Minutes past Six O'clock, the Third Chairperson adjourned the House without Question put pursuant to the Standing Orders.

19. HOUSE ROSE - at Eighteen Minutes past Six O'clock

M E M O R A N D U M

The Speaker will take the Chair on,
Tuesday, June 04, 2024 at 02.30 p.m.