



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, APRIL 30, 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. **COMMUNICATION FROM THE CHAIR**

The Speaker issued the following Communications –

(i) The Annual Prayer Breakfast, 2024

“**Honourable Members**, as you are aware, the Annual National Prayer Breakfast is held every last Thursday of the month of May. In this regard, the 2024 Kenya National Assembly Prayer Breakfast is scheduled to take place on **Thursday, 30th May 2024** at the Safari Park Hotel, Nairobi. The prayer breakfast will be held under the theme “Hope.”

Honourable Members, the Prayer Breakfast is an inter-denomination prayer meeting organized by Members of Parliament and includes various leaders from across the country and beyond.

In order to facilitate attendance to the 2024 Annual Prayer Breakfast, Members are requested to pick their invitation cards to the event at the Main Reception. You may contact the Chairperson of the Prayer Breakfast Group, the Member for Ainabkoi, **Hon. Samuel Chepkonga, CBS, MP** for any further clarification.

Additionally, Honourable Members, the First Lady of Kenya shall host the Women Convocation on Wednesday, 29th May 2024 at State House from 10:00am. All women Members of Parliament are invited to the convocation.

Finally, Honourable Members, the National Conversation 2024 shall be held on Wednesday, 29th May 2024 at Safari Park Hotel from 1:00pm. The House is accordingly guided. I thank you!”

(ii) Invitation of all Members to the National Government Constituencies Development Fund 20 years anniversary celebration

“**Honourable Members**, As you are aware, the National Government Constituencies Development Fund (NG-CDF) was established in 2003 under the NG-CDF Act 2015 with an objective to supplement infrastructure development at the constituency level in matters falling within the exclusive functions of the national government.

Honourable Members, the Fund commenced operations in April 2004. Over the years, the fund has been instrumental in enabling grassroot development including construction of schools as well as providing bursaries to needy students.

Honourable Members, in recognition of the enormous achievements of the Fund as demonstrated by substantial transformation across the country, the Board has organized series of events highlighting the tremendous impact of NG-CDF. The events will culminate in a national celebration to be observed on **Friday, 3rd May, 2024 at Safari Park Hotel, Nairobi**. The ceremony will be presided over by His Excellency Hon. Dr. William Samoei Ruto, CGH, the President and Commander in Chief of the Kenya Defence Forces.

In view of the role of Parliament, and Members of Parliament specifically, in the conceptualization, marshaling of legislation and oversight of the Fund, the NGCDF Board has extended an invitation to all Honourable Members to the celebration on Friday, 3rd May, 2024 at 9.00 a.m. All Guests are expected to be seated by 8.30 a.m. All Honourable Members are welcome to the celebrations. I thank you!”

(iii) Referral of the draft Affordable Housing Regulations, 2024 to the Committee on Delegated Legislation

“**Honourable Members**, this communication relates to the regulations which have just been laid by the Leader of the Majority Party. Section 59(3) of the Affordable Housing Act, 2024 provides that the Cabinet Secretary shall table before Parliament, the regulations made under this section within thirty (30) days of commencement of the Act.

In this regard, and as part of the processing of the envisaged regulations, the Ministry of Lands, Public Works, Housing and Urban Development submitted to the National Assembly the draft Affordable Housing Regulations, 2024 on Friday, 26th April 2024. I hasten to note that the Ministry has had engagements with various stakeholders on the draft regulations as part of public participation in line with the Statutory Instruments Act, Cap 2A.

Honourable Members, noting the centrality of the regulations to the full implementation of the affordable housing programme and pursuant to the provisions of Standing Order 210(2), I hereby refer the draft Affordable Housing Regulations, 2024 to the Committee on Delegated Legislation for consideration.

Honourable Members, while appreciating that matters of affordable housing concern county governments in accordance with Article 110 of the Constitution, I direct the Committee to sit jointly with the Senate Committee on Delegated Legislation to consider the draft regulations. I further direct the Clerk to facilitate the Committee in undertaking public participation activities on the draft regulations. The House is accordingly guided. I thank you!”

(iv) Notice of Motion for Dismissal of Hon. Franklin Mithika Linturi, Cabinet Secretary for Agriculture and Livestock Development

“**Honourable Members**, I wish to notify you that pursuant to Article 152(6) of the Constitution and Standing Orders 64 and 66, I am in receipt of a Notice of a Special Motion, dated 24th April, 2024 from the Member for Bumula Constituency, the Hon. Jack Wanami Wamboka, M.P. The Hon. Member seeks a resolution of the House for the dismissal of the Hon. Franklin Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development on **grounds of gross violation of the Constitution or of any other law; serious reasons to believe that the Cabinet Secretary has committed a crime under national law; and gross misconduct.**

Honourable Members, Standing Order 66(1) provides that before giving notice of a Motion under Article 152(6) of the Constitution, a Member shall deliver to the Clerk a copy of the proposed Motion in writing.

Whereas Standing Order 66(1) is silent on the timeline within which the Clerk is required to consider the proposed Motion and advise the Speaker, it must be noted that a Motion for dismissal of a Cabinet Secretary is a Special Motion under Standing Order 61 which ought to be disposed of in expeditiously. Consequently, the Clerk is required to consider the proposed Motion and advise the Speaker without unnecessary delay. Further, in the case of the Speaker, Standing Orders 64 and 66 provide that a proposed Motion shall be disposed of by the Speaker **within three days of receipt of notice by a Member**.

Honourable Members, this strict timeline of three days is intended to allow the Speaker to examine the proposed Motion and any evidence attached to it and determine whether the proposed Motion meets the procedural requirements outlined in the Standing Orders. In this regard, I note that the Member for Bumula Constituency submitted the proposed Motion to my office **last week on Wednesday, 24th April, 2024**.

Article 259(5) of the Constitution provides for the manner of computation of time. It guides that where time is expressed as days, **the day on which the first event occurs is to be excluded, and the day by which the last event may occur is to be included** when computing time. Consequently, the period of three days that applies to the Speaker in respect of the proposed Motion started running **from Thursday 25th April, 2024. The three days expired on Saturday, 27th April, 2024**. As such, the earliest available opportunity for the Speaker to notify the House on the admissibility of the proposed Special Motion is today, being the nearest available sitting of the House since receipt of the proposed Motion.

Honourable Members, allow me to highlight the legal and procedural requirements that guide the process of dismissing a Cabinet Secretary.

Article 152(6) of the Constitution provides that ***“a member of the National Assembly, supported by at least one quarter of all the members of the Assembly, may propose a motion requiring the President to dismiss a Cabinet Secretary-***

- (a) on the ground of a gross violation of a provision of the Constitution or of any other law;***
- (b) where there are serious reasons for believing that the Cabinet Secretary has committed a crime under national or international law; or***
- (c) for gross misconduct.***

Procedurally, Standing Order 66(1) provides that ***“before giving notice of motion under Article 152(6) of the Constitution, a Member shall deliver to the Clerk a copy of the proposed motion in writing—***

- (a) stating the grounds and particulars in terms of Article 152(6) of the Constitution upon which the proposed motion is made;***
- (b) signed by the Member; and***
- (c) signed in support by at least one-quarter of all the Members of the Assembly.***

Honourable Members, additionally, Standing Order 64(1A) provides as follows on the admissibility of grounds for removal from office:

(1A) The grounds specified in a motion under this Standing Order shall be admissible if—

- (a) framed clearly to particularize and disclose a gross violation of the Constitution or other written law, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal;**
- (b) stating with precision, the provisions of the Constitution or other written law that are alleged to have been grossly violated, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal; and**
- (c) accompanied by necessary evidence, including annexures or sworn testimonies in respect of the allegations.**

Honourable Members, it is worth noting that Standing Orders 64(1A) and 66 as presently couched find their basis from the practice of the House in the 11th and 12th Parliament where Notices of Motion were submitted by Members for dismissal of various Cabinet Secretaries. These include the Notice of Motion for dismissal of the then Cabinet Secretary for Devolution, Hon. Anne Waiguru; the Notice of Motion for dismissal of the then Cabinet Secretary for Transport, Mr. James Macharia; and the Notice of Motion for the dismissal of the then Cabinet Secretary for Education, Prof. Jacob Kaimenyi.

My predecessor, the Hon. Speaker Justin Muturi has had occasion to guide the House on the manner of considering a Special Motion such as the one proposed by the Honourable Member for Bumula. In a Communication issued on **22nd October, 2015 on the Processing of Special Motions on Removal of State Officers**, the Hon. Speaker guided as follows:

- (1) That all Special Motions brought before the House under Article 152(6) of the Constitution should comply with thresholds established by the courts of law as to what constitutes gross violation of the Constitution or gross misconduct under the Constitution.**
- (2) That the question of determining what constitutes gross violation of the Constitution or gross misconduct is one that clings and hangs on the impeachable authority of the House and is exercisable in two instances – firstly, at the point of the approval of the Special Motion for impeachment or dismissal by the Speaker pursuant to Standing Order 47(3)(b) and (e) which requires the Speaker to be satisfied of the constitutional and evidential propriety of the Special Motions. Secondly, at the point of investigations conducted by the relevant Select Committee or tribunal, pursuant to the provisions of the relevant Article of the Constitution.**
- (3) Averments made in the Special Motions should be accompanied by the necessary evidence including annexures and sworn testimonies in respect of the allegation as may be necessary.**

Honourable Members, our courts have also grappled with the question of the threshold for admissibility of impeachment motions. This has led them to set a standard for determining what constitutes “gross violation of the law” or “gross misconduct” in impeachment processes through a number of precedent-setting cases.

Notably, the High Court of Kenya, **in Martin Nyaga Wambora and 30 Others versus the County Assembly of Embu and 4 others (Embu Constitutional Petition Nos. 7 and 8 of 2014)**, considered the issue of the required threshold for

determining what amounts to a gross violation of the Constitution and gross misconduct in impeachment processes.

With regard to what constitutes gross violation of the Constitution, the Court observed that ***“The charges framed against the governor and the particulars thereof must disclose a gross violation of the Constitution or any other written law; and the charges as framed must state with degree of precision the Article(s) or even sub-Article(s) of the Constitution or the provisions of any other written law that have been alleged to be grossly violated”.***

Honourable Members, the Court further gave examples of constitutional provisions whose violation would constitute gross violation of the Constitution. According to the Court, these include—

- (1) **Chapter 1- On the sovereignty of the people and supremacy of the Constitution more specifically Articles 1, 2, and 3(2) of the Constitution;**
- (2) **Chapter 2 - Article 4 that establishes Kenya as a sovereign multi-party Republic & Article 6 that establishes devolution and access to services;**
- (3) **Article 10- on national values and principles of good governance;**
- (4) **Chapter 4- on the Bill of Rights;**
- (5) **Chapter 6 - Articles 73 to 78 on leadership and integrity;**
- (6) **Chapter 12 - Article 201 on principles of public finance;**
- (7) **Chapter 13 - Article 232 on values and principles of public service; and**
- (8) **Chapter 14 - Article 238 on principles of national security, among other constitutional provisions.**

Further, in respect of what constitutes gross misconduct, the Court observed that ***“whether a conduct is gross or not will depend on the matter as exposed by the facts. It cannot be determined in a vacuum but in relation to the facts of the case and the law policing the facts. Gross misconduct is defined as a grave violation or breach of the provisions of the Constitution; and a misconduct of such nature as amounts in the opinion of the House of Assembly to gross misconduct”.***

Honourable Members, drawing from the foregoing, the House amended its Standing Orders at the end of the 11th Parliament to comply with the prescribed thresholds.

Presently, our Standing Orders 64 and 66 incorporate the pronouncements of the Court on the threshold for admissibility of grounds for removal of a Cabinet Secretary by requiring that ***grounds in a motion must be framed clearly to particularize and disclose a gross violation of the Constitution or other written law;*** and that such grounds ***must also state with precision, the provisions of the Constitution or other written law that are alleged to have been grossly violated.***

Honourable Members, having examined the legal and procedural requirements of processing Special Motions for the removal of persons from office, permit me now to determine whether the proposed Special Motion by the Member for Bumula Constituency is admissible.

Honourable Members, it is worth noting that Standing Order 47(3)(b) and (e) places an obligation on the Honourable Speaker to make a determination on whether any proposed Motion is contrary to the Constitution or contains allegations which the mover cannot substantiate.

As noted earlier, the question of determining what constitutes gross violation of the Constitution or gross misconduct is one that clings and hangs on the impeachable authority of the House and is exercisable in two instances; **firstly, at the point of the approval of the Special Motion for impeachment by the Speaker and secondly, at the point of investigations conducted by the relevant Select Committee.**

Honourable Members, In determining the admissibility of the Motion proposed by the Member for Bumula. I am required to examine two key issues.

The **first issue is whether the proposed motion meets the requirements of the Constitution and Standing Orders as to form and the threshold required to move such a motion. The second issue is whether the grounds as contained in the proposed Motion are admissible.**

Honourable Members, on the First Issue, I note that from a reading of Article 152(6) of the Constitution and Standing Order 66, a proposed Motion by a Member for the dismissal of a Cabinet Secretary must be supported by at least one-quarter **of all the members of the Assembly. A quarter of all the members of the Assembly is 87.25. In parliamentary practice, a decimal point is rounded off to a whole Member.** Consequently, the threshold for **initiating** a motion for the dismissal of a Cabinet Secretary is **88 Members of this House.**

Secondly, Standing Order 66 provides that—

- (a) the proposed motion should be in writing;**
- (b) the proposed motion should state the grounds and particulars in terms of Article 152(6) of the Constitution upon which the proposed motion is made;**
- (c) the proposed motion should be signed by the Member; and**
- (d) signed in support by at least one-quarter of all the Members of the Assembly.**

Honourable Members, looking at the proposed Motion by the Member for Bumula, I note that pursuant to Article 152(6) of the Constitution and Standing Order 66, the Member has stated the grounds and given the particulars upon which he proposes the dismissal of the Cabinet Secretary.

Additionally, pursuant to Standing Order 66, the proposed Motion is also in writing and signed by the Hon. Member. Further, under Article 152(6) of the Constitution and Standing Order 66, the Honourable Member has attached a list of the signatures of **110 Members of the National Assembly who have signed the Motion in support.**

Honourable Members, consequently, I find that the proposed Motion by the Member for Bumula, meets the requirements of Article 152(6) of the Constitution and Standing Order 66 as to form and the threshold required for a Member to move a motion for dismissal of a Cabinet Secretary. This settles the First Issue.

Honourable Members, moving to the **Second Issue** on the admissibility of the grounds specified in the Motion. Under Standing Orders 64(1A) and 66, grounds cited in a Special Motion are admissible if—

- (a) framed clearly to particularize and disclose a gross violation of the Constitution or other written law, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal;**

- (b) they state, with precision, the provisions of the Constitution or other written law that are alleged to have been grossly violated, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal; and*
- (c) accompanied by necessary evidence, including annexures or sworn testimonies in respect of the allegations.*

Honourable Members, Article 152(6) of the Constitution provides for three grounds for which a Cabinet Secretary may be removed from office. These are **gross violation of the Constitution or of any other law; serious reasons to believe that the Cabinet Secretary has committed a crime under national law; and gross misconduct.** Permit me now to highlight the grounds specified in the Motion for dismissal of the Cabinet Secretary for Agriculture and Livestock Development.

Honourable Members, on the ground of gross violation of the Constitution, the Member for Bumula Constituency has stated as follows in the proposed Motion—

- (a) That, the Cabinet Secretary has grossly violated the Constitution in particular **Articles 2 and 10(1)(c) of the Constitution** on national values and good governance for failure to undertake public participation with relevant stakeholders in the implementation of a far-reaching policy decision on the procurement and distribution of fertilizer.
- (b) That, the conduct of the Cabinet Secretary of approving procurement and distribution of fake fertilizer by the NCPB disclose a gross violation of national values and principles of good governance contrary **to Article 10(1)(b) of the Constitution.**
- (c) That, the conduct of the Cabinet Secretary of approving the procurement and distribution of fake fertilizer discloses a gross violation of the Constitution by infringing **Article 46 of the Constitution on consumers rights** to goods and services of reasonable quality and their protection of health, safety and economic interests.
- (d) That, the conduct of the Cabinet Secretary of approving the procurement and distribution of fake fertilizer amounts to gross violation of public trust and the Cabinet Secretary failed to demonstrate respect for the people, bring honour to the nation and dignity to the office and promote public confidence and integrity of the office **contrary to Article 73(1) of the Constitution.**
- (e) That, the conduct of the Cabinet Secretary of approving the procurement and distribution of fake fertilizer amounts to gross violation of the principles of public finance **contrary to Article 201 of the Constitution** as public money was not applied in a prudent and responsible way.
- (f) That, the conduct of the Cabinet Secretary in which he submitted to the Departmental Committee on Agriculture that NCPB signed an agency agreement with 51 Capital Africa Diatomite Industries for supply and distribution of GPC diatomaceous for its commercial function and that the product was not sold as a chemical fertilizer but a soil conditioner **was in gross violation of Article 152(5)(a) and (e), (6), (7), (8), (9) and (10) of the Constitution.**
- (g) That, the conduct of the Cabinet Secretary of overseeing the implementation of the budgets of the NCPB under his control for the procurement and distribution of fake fertilizer is a gross violation of values and principles of public service on use of resources efficiently, effectively and economically.

Honourable Members, the proposed Motion also seeks the dismissal of the Cabinet Secretary for Agriculture on the ground of serious reasons for believing that he has committed a crime under national law.

To this end, the Member for Bumula Constituency has stated as follows in the proposed Motion as follows—

- (a) That, the conduct of the Cabinet Secretary discloses grounds that there are serious reasons for believing that the Cabinet secretary has committed a crime under national law involving offences relating to abuse of office and false claims **contrary to sections 100 and 101 of the Penal Code.**
- (b) That, the conduct of the Cabinet Secretary discloses grounds that there are serious reasons for believing that the Cabinet secretary has committed a crime under national law relating to forgery, uttering false documents and procuring execution of documents by false pretenses contrary to **sections 353 and 355 of the Penal Code.** The Member further avers that the Cabinet Secretary is currently under investigation by DCI following the findings of the court in *FML versus DPP and 3 Others: Registrar of Companies and 10 Others 2021 eKLR* and is further facing arrest and prosecution in six pending civil, commercial and family suits.

Honourable Members, finally on the **third ground**, the Member for Bumula Constituency seeks the dismissal of the Cabinet Secretary for Agriculture and Livestock Development **on the ground of gross misconduct** and states as follows—

- (a) That, the conduct of the Cabinet Secretary of getting into public spats with journalists who unearthed the distribution of the fake fertilizer discloses the ground of gross misconduct in so far as a state officer he has failed to demonstrate professionalism in carrying out duties of the office and in a manner that maintains public confidence in the integrity of the office **contrary to section 11(a) of the Leadership and Integrity Act, Cap. 185C.**
- (b) That, the conduct of the Cabinet Secretary of storming into manufacturing plants and purporting to be revoking licenses without conducting investigations amounts to gross misconduct in so far as a state officer, he has failed to demonstrate professionalism in carrying out duties of the office and in a manner that maintains public confidence in the integrity of the office manner **contrary to section 11(a) of the Leadership and Integrity Act, Cap. 185C.**
- (c) That, the conduct of the Cabinet Secretary of approving procurement and distribution of fake fertilizer in so far as a state officer he has failed to exercise public trust in the best interests of the people of Kenya amounts to gross misconduct **contrary to section 8 of the Leadership and Integrity Act, Cap. 185C.**
- (d) That, the conduct of the Cabinet Secretary of approving procurement and distribution of fake fertilizer in so far as a state officer he has failed to exercise his duties to the best of his ability and to carry out the duties efficiently and honestly and in a transparent and accountable manner amounts to gross misconduct **contrary to section 10(a) and (b) of the Leadership and Integrity Act, Cap. 185C.**
- (e) That, the conduct of the Cabinet Secretary of approving the procurement and distribution of fake fertilizer by NCPB discloses the ground of gross misconduct in so far as a State officer he has failed to

demonstrate professionalism in carrying out duties of the office in a manner that maintains public confidence in the integrity of the office **contrary to section 11(a) of the Leadership and Integrity Act, Cap. 185C.**

- (f) That, the conduct of the Cabinet Secretary of approving the procurement and distribution of fake fertilizer by NCPB and misleading the public by giving false information to the Departmental Committee on Agriculture that GPC diatomaceous was distributed as a soil conditioner and not fertilizer amounts to gross misconduct **contrary to section 29 of the Leadership and Integrity Act, Cap. 185C.**

Honourable Members, in addition to the three grounds that I have just highlighted, the Member for Bumula Constituency has attached additional background information to further substantiate his stated grounds. Additionally, the Hon. Member has attached a **sworn statement** in which he avers that all the information stated in the proposed Motion is true and correct to the best of his knowledge.

Notably, the Honourable Member has also annexed to the proposed Motion evidence and supporting documents contained in **five (5) Annexes.**

These include the response by the Cabinet Secretary to the Departmental Committee on Agriculture and Livestock, correspondences, statements, a court judgment (Hon. FML versus DPP and 3 Others: Registrar of Companies and 10 Others 2021 eKLR), and submissions by the Kenya Bureau of Standards (KEBS) to the Departmental Committee on Agriculture and call logs, among other documents.

Honourable Members, in light of the foregoing and pursuant to Standing Orders 64 and 66, I am of the considered opinion that the grounds specified for the dismissal of the Cabinet Secretary for Agriculture and Livestock Development as contained in the proposed Motion—

- (a) **are framed clearly to particularize and disclose a gross violation of the Constitution or other written law in this case being the Penal Code and the Leadership and Integrity Act; and**
- (b) **state, with precision, the provisions of the Constitution or other written law in this case the Penal Code and the Leadership and Integrity Act that are alleged to have been grossly violated; and**
- (c) **are accompanied by necessary evidence, including annexures or sworn testimonies in respect of the allegations.**

Consequently, **the grounds for dismissal of the Cabinet Secretary for Agriculture and Livestock Development as contained in the proposed Motion comply with the requirements of Standing Orders 64(1A) and 66. This settles the Second Issue.**

Honourable Members, in view of the foregoing, I find that the proposed special Motion meets the applicable procedural requirements for it to be admitted to the next stage. In this regard, I note that Standing Order 47(4A), provides that a Member shall give Notice of Motion in the House within **three sitting days following approval by the Speaker.**

In the circumstances, following my approval of the proposed Motion, I will allow the Member for Bumula Constituency to give the Notice of Motion for dismissal of the Cabinet Secretary for Agriculture and Livestock Development this afternoon under Order No. 6 on Notices of Motions. Once the Honourable Member gives the Notice of the Motion under Standing Order 47(4A), the Motion shall proceed to the next stage.

Honourable Members, I will now highlight a summary of what is expected of the House, once the Member for Bumula Constituency gives the Notice of his Motion. In terms of timeline, pursuant to Standing Orders 64 and 66, the **House is required to dispose of the Motion within seven days of the Member giving notice** under Standing Order 47. In the event the House does not adhere to the timeline, the Motion shall be deemed to have been withdrawn and shall not be moved again in the same Session, except with the leave of the Speaker.

Consequently, if the Member for Bumula Constituency gives notice this afternoon, the House has until **next week Tuesday, 7th May, 2024** to dispose of the Motion. However, noting the House is scheduled to proceed on a one-month recess as from Friday, 3rd May, 2024, it is advisable that the House disposes of the Motion by **Thursday, 2nd May, 2024. This shall allow the House to become seized of the matter before proceeding on recess.**

Honourable Members, Under Article 152(7) of the Constitution. The House becomes properly seized of the matter if the Motion is **supported by one-third of the Members of the National Assembly.**

Upon approval of the Motion, the House is required to appoint a select committee of 11 Members to investigate the matter.

A third of all the Members of the National Assembly is 116.3. Rounded off to a whole Member, the Motion shall require the support of 117 Members for it to be referred to a Select Committee for investigations.

With regard to the timeline applicable to the Committee, Standing Order 66(5) provides that **the select committee shall, within ten (10) days, report to the Assembly whether it finds the allegations against the Cabinet Secretary to be substantiated.** If the select committee report finds that the allegations are unsubstantiated, no further proceedings are to be taken. **However**, if the select committee report finds that the allegations are substantiated, the House is required to afford the Cabinet Secretary an opportunity to be heard; and vote whether to approve the resolution requiring dismissal of the Cabinet Secretary.

Pursuant to Article 152(10) of the Constitution, a resolution requiring the President to dismiss a Cabinet Secretary **must be supported by a majority of the Members of the National Assembly which is 175 Members.** A resolution that achieves the required support must be promptly delivered to the President and is bound to dismiss the Cabinet Secretary in question.

Honourable Members, from the foregoing, you will agree me with me that once the Member for Bumula Constituency gives the Notice of Motion, the stage shall be set for the House to commence the consideration of the Motion. To this end, Members should take cognizance of the constitutional and procedural requirements, the thresholds and prescribed timelines at different stages of consideration of the Motion that I have just highlighted.

Honourable Members, in summary therefore, I wish to guide the House as follows:

- (1) **THAT, the proposed Motion by the Member for Bumula Constituency, meets the applicable procedural requirements of Standing Orders 64 and 66 for it to be admitted and considered by the House.**
- (2) **THAT, consequently, upon the reading of Order No. 6 this afternoon, I will permit the Member for Bumula Constituency to give Notice of Motion for the dismissal of the Cabinet Secretary for Agriculture and Livestock Development in accordance with the requirements of Standing Order 47(4A).**

- (3) THAT, since today is not a day for debate, in giving Notice of the Special Motion the Member for Bumula Constituency shall limit himself to a summary of its the content; state the grounds upon which the Special Motion has been made and the names of the Members who have appended their signatures in support of the Special Motion as required under Article 152 of the Constitution and Standing Order 66.**
- (4) THAT, the Clerk is hereby directed to publish the Special Motion for the dismissal of the Cabinet Secretary for Agriculture and Livestock Development in the Order Paper for Thursday, 2nd May, 2024 in the manner contemplated under Standing Oder 66(3), for consideration by the House during the morning sitting of that day, which has been agreed to by the House Business Committee. The House is accordingly guided. I thank you!"**

5. PAPERS

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

- (i) Draft Affordable Housing Regulations, 2024 from the Ministry of Lands, Public Works, Housing and Urban Development;
- (ii) Draft Water Sector Trust Fund Project's Funding Criteria, 2023 from the Ministry of Water, Sanitation and Irrigation;
- (iii) Sessional Paper No. 3 of 2023 on Kenya Policy on Public Participation to Parliament from the Office of the Attorney-General;
- (iv) The FY 2024/25 Budget Estimates from the Judiciary and the following accompanying documents: -
 - a) Itemized Recurrent and Development budget for both Vote 1261 and 9011;
 - b) FY 2024/25-2026/27 Medium Term Expenditure Framework (MTEF) Sector Report; and
 - c) FY 2024/25-2026/27 Programme Based Budget (PBB) Report.
- (v) Budget Estimates and the Medium Term of Judicial Service Commission – Vote 2051 for the FY 2024/25 and the JSC Sub-Sector Report FY 2024/25 – 2026/27 from the Judicial Service Commission.
- (vi) The Judicial Service (Tribunal to inquire into the conduct of Justice Mohamed Noor Kullow) Rules of Procedure, 2024.
- (vii) Estimates of recurrent and development expenditure of the Parliamentary Service Commission for the year ending 30th June 2025 and projections for 2025/2026 to 2027.
- (viii) Report of the Auditor-General and Financial Statement on Agricultural Development Corporation for the year ended 30th June, 2023 and the certificate therein.
- (ix) Budget Estimates for the FY 2024/2025 and Medium Term for the National Government from the National Treasury which include:
 - a) FY2024/2025 Programme Based Budget
 - b) FY2024/2025 Estimates for Recurrent Expenditure- Volumes I and II
 - c) FY2024/2025 Estimates of Development Expenditure- Volumes I, II and III
 - d) List of Projects for the Financial Year 2024/2025 and the Medium Term
 - e) The Budget Summary for the Fiscal Year 2024/2025 and the supporting information
 - f) Estimates of Revenue Grants and Loans of the Government of Kenya for the Financial Year 2024/2025
 - g) Annex of Estimates of Revenue and Expenditure for State Corporations of Government of Kenya for the Financial Year ending 30th June 2025; and

h) Financial Statement for the Fiscal Year 2024/ 2025.

(Hon. Owen Baya - Deputy Leader of the Majority Party)

(x) The 2024-2028 Strategic Plan of the African Parliamentarians Network Against Corruption (APNAC-Kenya) from the Chairperson, APNAC-Kenya.

(Hon. Shakeel Shabir- Chairperson, African Parliamentarians Network Against Corruption (APNAC-Kenya)

(xi) 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 (MLI).

(Chairperson, Departmental Committee on Finance and National Planning)

6. NOTICES OF MOTION

The following Notices of Motion were given—

(i) Ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to prevent Base Erosion and Profit Shifting

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 pursuant to 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*).

(Hon. Joseph Makilap - Member, Departmental Committee on Finance and National Planning)

(ii) Adjournment of the House on a definite matter of urgent National importance regarding the ongoing floods

Honourable Speaker, pursuant to Standing Order 33(1) (c), I rise to seek leave for the adjournment of the House for the purpose of discussing a definite matter of urgent national importance regarding the ongoing floods and other attendant inconveniences related thereto as experienced across the country.

Honourable Speaker, as all are aware, the March – May long rains started sometime in mid-March and since then the country has experienced weeks of heavy rains and devastating flashfloods which has led to loss of life, loss of business, destruction of property and disruption of national activities, just to mention a few. In one unfortunate incident, the Old Kijabe Dam in Kamuchiri Village experienced a dam failure owing to structural failure characterized by sudden, rapid and uncontrolled release of impounded water which led to deaths of over 50 persons and 100 plus hospitalized as at now.

Honourable Speaker, opening of schools has also been halted due to uncertainty on the safety of the children and teachers as well as the unfortunate conditions on some of schools. In addition, there has been loss of livelihood and business and this has exacerbated the already worse economic situation and led to immense and

immeasurable suffering of Kenyans and mostly the small traders. The unprecedented events of the floods have also led to closure of roads and highways impacting the road connection network and thus likely to affect the secluded areas due to increased prices of basic needs as a result of shortage of supplies.

Honourable Speaker, it is against this background that I seek leave for adjournment of the house to discuss this matter of great national concern with a view of exploring possible solutions in order to advise the responsible key players, stakeholders and the country at large.

(Hon. Joseph Kimutai Chererot)

(iii) Special Motion – Dismissal of Hon. Mithika Linturi as the Cabinet Secretary for Agriculture and Livestock Development

THAT, pursuant to the provisions of Article 152(6) of the Constitution and Standing Orders 64(1A) and 66, this House RESOLVES that the President DISMISSES the Hon. Franklin Mithika Linturi from the office of Cabinet Secretary for the Ministry of Agriculture and Livestock Development on the following grounds—

1. Gross violation of the Constitution:

(a) Violation of Articles 2 and 10(1)(c) of the Constitution

THAT, the Hon. Franklin Mithika Linturi, acting as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, appears to have committed gross violation of these constitutional provisions by—

- (i) not undertaking public participation with leaders, stakeholders, or even departments within the Ministry in the implementation of far-reaching policy decisions on the procurement and distribution of fertilizer therefor violating the provisions of the Constitution on national values and principles of good governance in so far as he acted as a State officer to make and implement a public policy to approve the procurement and distribution of fake fertilizer contrary to recommendations of the National Cereals and Produce Board, an agency in the Ministry; and
- (ii) approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board, discloses a gross violation of national values and principles of good governance in so far as he acted as a State officer to make and implement a public policy to approve the procurement and distribution of fake fertilizer contrary to **Article 10(1)(b) of the Constitution**.

(b) Gross violation of Article 46 of the Constitution

THAT, one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, appears to be in gross violation of this constitutional provision by—

- (i) infringing on consumers' right to goods and services of reasonable quality and to the protection of their health, safety, and economic interests by approving the procurement and distribution of fake fertilizer;
- (ii) approving the budgets for procurement and distribution of fake fertilizer by the National Cereals and Produce Board thereby

violating consumer's right to goods and services of reasonable quality and to the protection of their health, safety, and economic interests as he approved the procurement and distribution of fake fertilizer contrary to **Article 46 of the Constitution**.

(c) **Gross violation of Article 73 of the Constitution**

THAT, the conduct of one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, appears to be a gross violation of this constitutional provision in so far as the public trust was exercised in a manner that is inconsistent with the purposes and objects of the Constitution. He failed to demonstrate respect for the people, failed to bring honour to the nation, dignity to the office, and failed to promote public confidence in the integrity of the office contrary to **Article 73(1)(a)(i), (ii), (iii) and (iv) of the Constitution**.

(d) **Gross violation of Article 201 of the Constitution**

THAT, one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, appears to have committed a gross violation of this constitutional provision by approving the procurement and distribution of fake fertilizer by the National Cereals and Produce Board. This amounts to a gross violation of principles on public finance in so far as public money is concerned and that public money was not applied in a prudent and responsible way when he approved the procurement and distribution of fake fertilizer contrary **Article 201(d) of the Constitution**.

(e) **Gross violation of Article 232 of the Constitution**

THAT, the Hon. Franklin Mithika Linturi, the Cabinet Secretary for Agriculture and Livestock Development, appears to have committed a gross violation of this constitutional provision where, he outlined in his written submission as a response to the fertilizer subsidy programme to the Departmental Committee on Agriculture and Livestock, misleading information that the National Cereals and Produce Board (NCPB) signed an Agency Agreement with 51 Capital Africa Diatomite Industries on 31st March 2022 for supply and distribution of GPC diatomaceous for its commercial function, and that the product was not sold as a chemical fertilizer but as a soil conditioner, violating the values and principles of public service, duty to use resources efficiently, effectively and economically contrary to **Article 232 of the Constitution**.

2. Serious reasons for believing that the Cabinet Secretary has committed a crime under national law:

(a) **Serious reasons for believing the Cabinet Secretary has committed a crime under sections 100 and 101 of the Penal Code, Cap. 63**

THAT, one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary for the Ministry of Agriculture and Livestock Development, issued a directive to officials of KELS Chemicals to attend a press conference and issue a statement from the National Cereals and Produce Board. His subsequent closure of the factory and declaration of it as a crime scene due

to the company's refusal to participate in the staged press conference, discloses grounds that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law, including but not limited to offences involving abuse of office and false claims by a person employed in the public service contrary to **sections 100 and 101 of the Penal Code, Cap 63.**

(b) Serious reasons for believing the Cabinet Secretary has committed a crime under sections 353 and 355 of the Penal Code, Cap. 63

THAT, one Franklin Mithika Linturi, the Cabinet Secretary for the Ministry of Agriculture and Livestock Development, is currently under investigation by the Director of Public Prosecutions and the Director of Criminal Investigations, and is facing arrest, charging, prosecution and institution of criminal proceedings in relation to six pending civil, commercial and family suits. This discloses grounds that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law, including but not limited to offences involving uttering false documents and procuring execution of documents by false pretences, contrary to **sections 353 and 355 of the Penal Code, Cap 63.**

3. Gross misconduct:

THAT, one Franklin Mithika Linturi, acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, by approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board, in so far as being a State officer—

- (i) has failed to exercise public trust in the best interest of the people of Kenya and this amounts to gross misconduct contrary to **section 8 of the Leadership and Integrity Act, Cap 185C;**
- (ii) has failed in the performance of his duties to the best of his ability to carry out the duties of the office efficiently and honestly, and to carry out the duties in a transparent and accountable manner, and this amounts to gross misconduct contrary to **section 10(a) & (b) of the Leadership and Integrity Act, Cap 185C;**
- (iii) has failed to demonstrate **professionalism** in carrying out duties of the office in a manner that maintains public confidence in the integrity of the office and this amounts to gross misconduct contrary to **section 11(a) of the Leadership and Integrity Act, Cap 185C;**
- (iv) misled the public by **submitting false information to a Departmental Committee** of the National Assembly that GPC diatomaceous was distributed as a soil conditioner and not as a fertilizer, and this amounts to gross misconduct contrary to **section 29 of the Leadership and Integrity Act, Cap 185C.**

Members who appended their signatures in support of the Notice of Motion

Pursuant to the provisions of Standing Order 66(1) and (3), it is notified that the names of the Members who appended their signatures in support of the Notice of Motion is as hereunder:-

- 1) The Hon. Jack Wamboka, M.P.
- 2) The Hon. Joyce Kamene, M.P.
- 3) The Hon. Raphael Wanjala, M.P.

- 4) The Hon. Fatuma Zainab, M.P.
- 5) The Hon. Paul Musyimi, M.P.
- 6) The Hon. (Dr.) James Nyikal, M.P.
- 7) The Hon. Gideon Mulyungi, M.P.
- 8) The Hon. Julius Musili, M.P.
- 9) The Hon. Rebecca Tonkei, M.P.
- 10) The Hon. Pauline Lenguris, M.P.
- 11) The Hon. Farah Yussuf, M.P.
- 12) The Hon. Dick Maungu, M.P.
- 13) The Hon. Irene Mayaka, M.P.
- 14) The Hon. Anthony Oluoch, M.P.
- 15) The Hon. Marianne Kitany, M.P.
- 16) The Hon. Beatrice Adagala, M.P.
- 17) The Hon. Adams Kipsanai, M.P.
- 18) The Hon. Samuel Parashina, M.P.
- 19) The Hon. Antoney Kibagendi, M.P.
- 20) The Hon. Martin Owino, M.P.
- 21) The Hon. Catherine Nanjala, M.P.
- 22) The Hon. Joseph Oyula, M.P.
- 23) The Hon. Stephen Mogaka, M.P.
- 24) The Hon. Dorice Donya, M.P.
- 25) The Hon. Beatrice Elachi, M.P.
- 26) The Hon. Shakeel Shabbir, M.P.
- 27) The Hon. Clive Gisairo, M.P.
- 28) The Hon. John Owino, M.P.
- 29) The Hon. Thuddeus Nzambia, M.P.
- 30) The Hon. Elsie Muhanda, M.P.
- 31) The Hon. Fredrick Ikana, M.P.
- 32) The Hon. Daniel Manduku, M.P.
- 33) The Hon. Mohamed Aden, M.P.
- 34) The Hon. Patrick Simiyu, M.P.
- 35) The Hon. Zamzam Mohamed, M.P.
- 36) The Hon. David Pkosing, M.P.
- 37) The Hon. Daniel Wanyama, M.P.
- 38) The Hon. Gathoni Wamuchomba, M.P.
- 39) The Hon. Mohamed Machele, M.P.
- 40) The Hon. Samuel Atandi, M.P.
- 41) The Hon. Charles Ngusya, M.P.
- 42) The Hon. Amos Mwago, M.P.
- 43) The Hon. Opiyo Wandayi, EGH, M.P.
- 44) The Hon. Junet Mohamed, CBS, M.P.
- 45) The Hon. Nolfason Barongo, M.P.
- 46) The Hon. Gertrude Mbeyu, M.P.
- 47) The Hon. Geoffrey Odanga, M.P.
- 48) The Hon. Abdi Chome, M.P.
- 49) The Hon. Erastus Nzioka, M.P.
- 50) The Hon. Sarah Korere, M.P.
- 51) The Hon. Tom Kajwang', M.P.
- 52) The Hon. (Dr.) Makali Mulu, M.P.
- 53) The Hon. Guyo Waqo, M.P.
- 54) The Hon. Paul Kahindi, M.P.
- 55) The Hon. Joshua Aduma, M.P.

- 56) The Hon. Oku Kaunya, M.P.
- 57) The Hon. John Mbadi, M.P.
- 58) The Hon. Mishi Mboko, CBS, M.P.
- 59) The Hon. Hussein Barre, M.P.
- 60) The Hon. Innocent Momanyi, M.P.
- 61) The Hon. Millie Odhiambo, M.P.
- 62) The Hon. Irene Kasalu, M.P.
- 63) The Hon. Patrick Osero, M.P.
- 64) The Hon. Jerusha Momanyi, M.P.
- 65) The Hon. Joshua Odongo, M.P.
- 66) The Hon. Abubakar Ahmed, M.P.
- 67) The Hon. Flowrence Jematiah, M.P.
- 68) The Hon. John Makali, M.P.
- 69) The Hon. Chiforomodo Mangale, M.P.
- 70) The Hon. Geoffrey Ekesa, M.P.
- 71) The Hon. Timothy Toroitich, M.P.
- 72) The Hon. Mwengi Mutuse, OGW, M.P.
- 73) The Hon. Gideon Kipkoech, M.P.
- 74) The Hon. Victor Koech, M.P.
- 75) The Hon. Catherine Omanyo, M.P.
- 76) The Hon. Caroline Ng'elechei, M.P.
- 77) The Hon. Stephen Mule, M.P.
- 78) The Hon. Leah Sankaire, M.P.
- 79) The Hon. Peter Nabulindo, M.P.
- 80) The Hon. Mumina Bonaya, M.P.
- 81) The Hon. David Mboni, M.P.
- 82) The Hon. James Onyango, M.P.
- 83) The Hon. Charles Were, M.P.
- 84) The Hon. Rashid Juma, M.P.
- 85) The Hon. Bashir Abdullahi, M.P.
- 86) The Hon. Abdi Ali, M.P.
- 87) The Hon. Tungule Kazungu, M.P.
- 88) The Hon. Gonzi Rai, M.P.
- 89) The Hon. Harrison Kombe, M.P.
- 90) The Hon. Tim Wanyonyi, M.P.
- 91) The Hon. Lydia Haika, M.P.
- 92) The Hon. Fatuma Jehow, M.P.
- 93) The Hon. Kakuta Maimai, M.P.
- 94) The Hon. Nabwera Nabii, M.P.
- 95) The Hon. Innocent Mugabe, M.P.
- 96) The Hon. Christine Ombaka, M.P.
- 97) The Hon. Kitilai Ole Ntutu, M.P.
- 98) The Hon. Joshua Mwalyo, M.P.
- 99) The Hon. Githua Wamacukuru, M.P.
- 100) The Hon. Mark Mwenje, M.P.
- 101) The Hon. Geoffrey Ruku, M.P.
- 102) The Hon. Mary Emaase, M.P.
- 103) The Hon. Eve Obara, M.P.
- 104) The Hon. (Dr.) Otiende Amollo, M.P.
- 105) The Hon. Peter Orero, M.P.
- 106) The Hon. Babu Owino, M.P.
- 107) The Hon. Joyce Bensuda, M.P.

- 108) The Hon. Amina Mnyazi, M.P.
- 109) The Hon. Adipo Okwome, M.P.
- 110) The Hon. Johnson Naicca, M.P.

7. STATEMENTS PURSUANT TO STANDING ORDER 44(2)(c)

(a) Statements requested:

- (i) the Member for Turkana South (Hon. (Dr.) John Ariko) requested for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the abduction of Mr. Sammy Ekitela at Cherinas Hotel in Turkana Central by known persons;
- (ii) the Member for Chepalungu (Hon. Victor Koech) requested for a Statement from the Chairperson of the Departmental Committee on Education regarding disparities in promotion of teachers in Bomet County;
- (iii) Nominated Member (Hon. Umulkher Harun) requested for a Statement from the Chairperson of the Departmental Committee on Blue Economy, Water and Irrigation regarding the overflow of Masinga Dam affecting downstream residents;
- (iv) the Member for Aldai (Hon. Maryanne Kitany) requested for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding delay of the *Maendeleo ya Wanawake* Elections; and
- (v) the Member for Mwingi Central (Hon. Gideon Mulyungi) requested for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding Circumstances surrounding the death of a specified person.

(b) Statements responded to:

- (i) the Chairperson of the Departmental Committee on Administration and Internal Security responded to a Statement requested by the Member for Tharaka (Hon. George Murugara) regarding the mysterious death of Ms. Peris Karimi Mugeru;
- (ii) the Chairperson of the Departmental Committee on Administration and Internal Security responded to a Statement requested by the Member for Eldas (Hon. Adan Keynan) regarding disappearance of Mr. Omar Mahamed Nur; and
- (iii) the Chairperson of the Departmental Committee on Environment, Forestry and Mining responded to a Statement requested by the Member for Laisamis (Hon. Joseph Lekuton) regarding the status of preparedness of Northern Kenya pastoralists in curbing the impacts of climate change the government intervention for pastoralists due to climate change.

8. PROCEDURAL MOTION – RESOLUTION TO HOLD A THURSDAY MORNING SITTING

Motion made and Question proposed-

THAT, pursuant to the provisions of Standing Order 30(3)(c), this House resolves to hold a **Morning** Sitting on **Thursday, 2nd May 2024**, commencing at 9.30 am for purposes of considering priority Business ahead of the long recess.

(The Leader of the Majority Party)

Debate arising;

Question put and agreed to.

9. MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON CONSIDERATION OF SENATE AMENDMENTS TO THE WATER (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2023)

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 **Senate Amendments** to the Water (Amendment) Bill (National Assembly Bill No. 33 of 2023).

(The Leader of the Majority Party)

Debate on the Motion having been concluded on Thursday, 25.04.2024;

Question put and negatived.

10. MOTION: 025/2023 – PROVIDING A SAFETY NET FOR CAREGIVERS OF PERSONS WITH SEVERE DISABILITIES

Motion made and Question proposed-

THAT, aware that, Article 21(3) of the Constitution provides that all State Organs have the duty to address the needs of vulnerable groups within the society; further aware that the persons with severe disabilities cash transfer programme (PWSD-CT) is one of the four cash transfer programmes implemented by the government as part of the overall social protection interventions; noting that caregivers undertaking the immense responsibility of providing daily care and assistance to persons with severe disabilities (PWSD) are oftentimes the immediate family members of the PWSD; concerned that, this causes a disproportionate burden on these families as persons who would otherwise be engaged in gainful employment or other activities to provide for the families are limited by these immense responsibilities; further concerned that, this loss of income opportunities and resources exacerbates the challenges faced by these families; cognizant that, the government ought to take action to recognize the invaluable contributions of caregivers and support them in caring for individuals with severe disabilities; now therefore, this House **resolves** that the Government, through the Ministry of Labour & Social Protection, recognizes primary caregivers of persons with severe disabilities (PWSD) as a distinct category requiring social protection and support, and further, develops and implements a cash transfer programme for these primary caregivers.

(Hon. Dorothy Ikiara - 13.03.2024)

Debate on the Motion having been concluded on Wednesday, 17.04.2024 (Morning Sitting);

Question put and agreed to.

11. MOTION: 041/2023 – ESTABLISHMENT OF A PRIORITY BOARDING PROTOCOL FOR KENYA DEFENCE FORCES AND KENYA SPECIAL FORCES PERSONNEL ON LOCAL AIRLINES

Motion made and Question proposed;

THAT, aware that, Article 239 provides for the National Security Organs, including the Kenya Defence Forces; further aware that, the Kenya Defence and Kenya Special Forces play an indispensable role in promoting and safeguarding national security in accordance with the Constitution; recognizing that, members of the Forces face life-threatening risks as they carry out their duties to protect our citizens, particularly in high-risk and volatile areas; noting that there is currently no token of appreciation for the remarkable dedication, service and sacrifices made by the Kenya Defence and Special Forces; acknowledging that it is important to accord special privileges and honours to our military and veteran personnel, akin to the practice observed in other countries including being allowed to access services like banking hall and boarding of flights ahead of the general public; further acknowledging that this practice would not only instill a sense of pride among the Kenya Defence and Kenya Special Forces personnel, but also enhance their morale and motivation, thereby boosting their performance and commitment to our national security; cognizant of the fact that there exists no national policy or framework to facilitate the implementation of such a practice; **now therefore, this House urges that the National Government, through the Ministry of Roads and Transport, encourages local airlines to establish a priority boarding protocol for the Kenya Defence and Kenya Special Forces personnel which grants them the privilege to board local aircrafts before the general public.**

(Hon. (Capt.) Ruweida Obo - 24.04.2024)

Debate on the Motion having been concluded on Wednesday, 24.04.2024 (Morning Sitting);

Question put and agreed to.

12. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The First Chairperson of Committees in the Chair

The County Licensing (Uniform Procedures) Bill (Senate Bill No. 09 of 2022)

Clause 3 - agreed to

Clause 4 - amendment proposed -

THAT, clause 4 of the Bill be amended—

- (a) by renumbering the existing provision as sub clause (1); and
- (b) by inserting the following new sub-clause immediately after sub-clause (1) —

“(2) A licensing authority shall, in considering an application for a licence to carry out business which is ordinarily regulated by a professional body, undertake due diligence to ascertain whether the applicant is duly qualified and licensed to undertake such business.”

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to

Clause 5 - amendment proposed –

THAT, clause 5 of the Bill be amended by inserting the words “including making specific provisions to ease the application process for persons with disabilities” immediately after the word “licence” appearing in paragraph (a).

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 5 - as amended agreed to

Clause 6 - amendment proposed –

THAT, clause 6 of the Bill be amended—

- (a) in paragraph (a) by inserting the word “distributors” immediately after the word “suppliers”;
- (b) by deleting paragraph “(c)” and substituting therefor the following new paragraph —
 - “(c) consult the relevant government entity responsible for standards in order to ensure that quality of goods produced and services delivered are of high standard”;
- (c) by inserting the following new paragraph immediately after paragraph (f)—
 - “(g) ensure that it does not prejudice national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour in line with Article 209(5) of the Constitution.”

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - as amended agreed to

Clause 7 - amendment proposed –

THAT, clause 7 of the Bill be amended—

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

“(1A) Each county government shall establish a board to be known as the County Licensing Board to perform the function of granting, amending, renewing, restoring and replacing of licences under subsection (1).

(1B) A County Licensing Board established under this section shall comprise—

- (a) the Chief Officer for the time being responsible for matters relating to revenue in the county government or a representative appointed in writing, who shall be the Chairperson;
- (b) the Chief Officer for the time being responsible for matters relating to trade in the county government or a representative appointed in writing;
- (c) the Deputy County Commissioner in charge of the specific subcounty where the licence is to be issued;
- (d) a representative of persons with disabilities who shall be nominated by the National Council for Persons with Disabilities from among persons with disabilities trading within the county; and
- (e) a subcounty administrator responsible for the specific county where the licence is to be issued.

(1C) The Cabinet Secretary shall make regulations to give effect to the provisions of this section including—

- (a) the conduct and regulation of the business and affairs of the County Licensing Board;
- (b) the appointment of persons under subsection (3)(c) and (e) on a rotational and need basis depending on the subcounty where a licence is to be issued;
- (c) the appointment of the persons appointed under subsection (3)(d);
- (d) remuneration of Board Members;
- (e) staff of the Board.

(c) by inserting following new sub-clauses immediately after sub-clause (2)—

“(2A) The mechanisms referred to under subsection (2) and the platforms to facilitate electronic application of a licence shall be designed while taking into account the needs of persons with disabilities.”

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 7 - as amended agreed to;

Clause 8 - agreed to;

Clause 9 - amendment proposed -

THAT, clause 9 of the Bill be amended by deleting sub clause (2) and substituting therefor the following new sub-clauses—

“(2) A notice under subsection (1) shall be made within three days of receipt of the application and shall specify the person to whom such information shall be submitted.”

“(2A) An applicant shall be granted a period of seven days to furnish the information requested in the notice specified under subsection (1).”

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 9 - as amended agreed to;

Clause 10 - amendment proposed –

THAT, clause 10 of the Bill be amended in sub clause (1) by inserting the words “and timely” immediately after the words “provide sufficient” appearing in paragraph(c);

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 10 - as amended agreed to;

Clause 11 - amendment proposed –

THAT, clause 11 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause —

“(1) A licensing authority shall, where the respective legislation requires an application to be advertised, publish a notice of the application in at least three of the following platforms—

- (a) one daily newspaper of wide circulation within the county;
- (b) in one local radio station;
- (c) a designated public notice board at the county, ward and village levels;
- (d) official website or social media platform.

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 11 - as amended agreed to;

Clauses 12 & 13 - agreed to;

Clause 14 - amendment proposed –

THAT, clause 14 of the Bill be amended in paragraph (a) by deleting the word “unconditionally”.

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 14 - as amended agreed to;

Clause 15 - amendment proposed –

THAT, clause 15 of the Bill be amended in sub clause (1) by inserting the words “in writing” immediately after the words “inform the applicant”.

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 15 - as amended agreed to;

Clause 16 - agreed to;

Clause 17 - amendment proposed –

THAT clause 17 of the Bill be amended —

(a) in sub clause (2) by deleting the words “and for the period stipulated in the licence” appearing immediately after the words “date of licence it renews”

(b) by inserting the following new sub clause immediately after subclause (2)—
“(2A) A licence shall be valid for the period stipulated in the licence:

Provided that a licence issued to a business intending to operate for one year or more shall be valid for one year from the date of issue”

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 17 - as amended agreed to;

Clause 18 - agreed to;

Clause 19 - amendment proposed –

THAT, the Bill be amended by deleting Clause 19.

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Proposed amendment dropped by the Chairperson;

Clause 19 - agreed to;

Clause 20 - amendment proposed –

THAT, clause 20 of the Bill be amended—

(a) in sub clause (1) by inserting the following new paragraphs immediately after paragraph (c) —

“(d) obtains a licence fraudulently;

(e) operates a different business from that which it is licenced to operate”;

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

“(2) A licensing authority shall issue a fourteen day notice to a licensee before cancelling a licence under subsection (1)(a), (b), (d) and (e).

(3) Each county government shall establish a committee to undertake the review of a decision to cancel a licence.

(4) The committee established under subsection (3) shall comprise—

(a) the County Executive Committee Member for the time being responsible for matters relating to finance;

(b) the County Executive Committee Member for the time being responsible for matters relating to trade;

(c) two representatives from the respective County Chamber of the Kenya National Chamber of Commerce;

(d) the County Commissioner; and

(e) the County Attorney.”

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 20 - as amended agreed to;

Clauses 21, 22 & 23 - agreed to;

Clause 24 - amendment proposed -

THAT, clause 24 of the Bill be amended —

(a) in sub-clause (2) by inserting the following words immediately after the words “respective county” -

“taking into consideration the following factors—

a) nature and scope of the licensed activity;

b) economic considerations;

c) administrative and regulatory costs;

d) public interest, and resource utilization; and

e) interests of vulnerable groups, women, youth and persons with disabilities.

(b) by inserting the following new sub-clause immediately after sub-clause (2)

—
(2A) Pursuant to Article 209(5) of the Constitution, the Council of Governors shall, within six months from the date of commencement of this Act, establish strategies and guidelines for —

- (a) harmonisation of licensing regulations, procedures, requirements and fee structures to ensure freedom of transit of goods and provision of services across various counties;
- (b) the progressive development of systems, including inter-county integrated digital platforms, to facilitate exchange of information, coordination and implement harmonised licensing to facilitate transit of goods and provision of services across various counties.

(c) in sub-clause (4) by deleting paragraph (b).

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 24 - as amended agreed to;

Clauses 25, 26, 27 & 28 - agreed to;

Clause 29 - amendment proposed—

THAT, clause 29 of the Bill be amended—

- (a) in sub clause (1) by deleting the word “may” and substituting therefor the word “shall”; and
- (b) in sub clause (2) by deleting the word “may” and substituting therefor the word “shall”.

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 29 - as amended agreed to;

Clause 2 - amendment proposed –

THAT, clause 2 of the Bill be amended—

- (a) in the definition of “Cabinet Secretary” by deleting the word “licensing” and substituting therefor the word “trade”;
- (b) by deleting the definition of “County Executive Committee Member”; and
- (c) by deleting the definition of “licensing authority” and substituting therefor the following new definition—

“licensing authority” means a County Licensing Board established by a county government under section 7.

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

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.

13. HOUSE RESUMED - the Sixth Chairperson in the Chair

The County Licensing (Uniform Procedures) Bill (Senate Bill No. 09 of 2022)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in its report.

(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

Debate arising;

Question deferred.

14. ADJOURNMENT OF THE HOUSE ON A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE REGARDING THE ONGOING FLOODS

Motion made–

THAT, pursuant to the provisions of Standing Order 33(1), this House do adjourn for purposes of discussing a definite matter of urgent national importance regarding the ongoing floods.

(Hon. Joseph Cherrot)

(Change of Chair from the Sixth Chairperson to the First Chairperson)

Debate arising;

And the time being Seven O'clock, the First Chairperson interrupted debate and adjourned the House without Question put pursuant to the Standing Orders.

15. HOUSE ROSE - at Seven O'clock.

MEMORANDUM

The Speaker will take the Chair on Thursday, May 2, 2024 at 10.00 am.