

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Thursday, 24th March 2022**

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]***PRAYERS****QUORUM****Hon. Speaker:** Ring the Division Bell for quorum.*(The Quorum Bell was rung)**(Hon. (Ms.) Rehema Jaldesa walked into the Chamber)*

Please make your way in, Hon. Jaldesa.

COMMUNICATION FROM THE CHAIR**WITHDRAWAL OF THE POLITICAL PARTIES (AMENDMENT) BILL**

Hon Speaker: Hon. Members, as you may recall, the Political Parties (Amendment) (No.2) Bill (National Assembly Bill No.58 of 2021) which is sponsored by the Member for Suba South and Leader of the Minority Party, Hon. John Mbadi Ng'ongo, was published *vide Kenya Gazette Supplement* No.223 of 3rd December, 2021. The Bill seeks to among other things, provide for corporate membership in the Political Parties Act, 2011, a concept which was recognised by the Political Parties Act, 2007, but was not carried over to the Political Parties Act, 2011. The Bill also seeks to recognise the different categories of membership of a political party.

Hon. Members, the Bill was read a First Time on 16th February, 2022, and committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is yet to table its report on the Bill to facilitate the Second Reading thereof.

Hon. Members, I wish to inform the House that I have received a letter from the sponsor of the Bill, Hon. John Mbadi, requesting to withdraw the Bill as the objects of the Bill have been overtaken by events following the enactment of the Political Parties Act, No.2 of 2022.

Hon. Members, Standing Order 140(1) and (2) provide and I quote -

“140(1) Either before the commencement of business or on the Order of the Day for any stage of the Bill being read, the Member in charge of a Bill may, without notice, claim to withdraw a Bill.

(2) If the Speaker is of the opinion that the claim is not an abuse of the proceedings of the House, the Speaker shall direct that the Bill shall be withdrawn.” In this regard, and pursuant to the provisions of Standing Order 140(2), having considered the request by Hon. John Mbadi, and having formed the opinion that it is not an abuse of the proceedings of the House, I have acceded to the request and consequently direct that the Bill be and is hereby withdrawn.

I thank you, Hon Members.

PAPERS LAID

Hon. Speaker: The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Report of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2020, and the certificates therein:

- a) Energy and Petroleum Regulatory Authority Staff Mortgage and Car Loan Scheme;
- b) Parliamentary Joint Services;
- c) State Department for Labour;
- d) Office of the Registrar of Political Parties; and,
- e) State Department for Correctional Services.

Report of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June, 2020, and the certificates therein:

- a) Sotik Technical Training Institute;
- b) Emining Technical Training Institute;
- c) Kenya Plant Health Inspectorate Service;
- d) Eldoret National Polytechnic;
- e) Tourism Research Institute;
- f) Koitaleel Samoei University College;
- g) Bomet University College;
- h) Kipipiri Technical and Vocational College;
- i) Friends College, Kaimosi (Kaimosi College of Research and Technology);
- j) St. Joseph Technical Institute of the Deaf;
- k) Kitale National Polytechnic;
- l) Ramogi Institute of Advanced Technology;
- m) Kenya Animal Genetic Resources Centre;
- n) National Drought Management Authority; and,
- o) Masinga Technical and Vocational Training College.

Report of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30th June 2020 and the certificates therein:

- (a) Emurua Dikirr;
- (b) Kajiado South;
- (c) Samburu North;
- (d) Samburu East;
- (e) Tiaty;
- (f) Gilgil;
- (g) Bahati;

- (h) Nakuru Town East;
- (i) Naivasha;
- (j) Bomet East; and,
- (k) Ruaraka.

Reports of the Auditor-General and Financial Statements of Friends College Kaimosi for the years ended 30th June, 2018, and 30th June, 2019, respectively and the certificates therein.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. Next Order.

QUESTIONS AND STATEMENTS

ORDINARY QUESTIONS

Hon. Speaker: The First Question is by the Member for Kwale, Hon. Zuleikha Hassan.

Question No.083/2022

LIST OF SNAKEBITE CASES IN KINANGO

Hon. (Ms.) Zuleikha Hassan (Kwale CWR, ODM): Thank you, Hon. Speaker. I stand to ask Question No. 083/2022 to the Cabinet Secretary for Tourism and Wildlife:

- (i) Could the Cabinet Secretary provide a list of all snakebite cases reported in Kinango Constituency, Kwale County?
- (ii) Could the Cabinet Secretary also state the timelines within which the family of the late Ms. Mejumaa M. Chone of ID No. 20870894, who was a resident of Kinango Constituency, will be compensated for the loss of life as a result of a snake bite in 2017?

Hon. Speaker: The Question will be replied to before the Departmental Committee on Environment and Natural Resources.

The next Question is by the Member for Kisumu West, Hon. Olago Aluoch. The next Question is by the Member for Kajiado Central, Hon. Memusi Kanchory. He had written to me requesting for deferment of the Question. The request was acceded to and the Question is therefore deferred.

Question No. 086/2022

STALLED CONSTRUCTION OF ILBISIL-ILMOTIOK ROAD AND MAPARASHA BRIDGE IN KAJIADO CENTRAL

(Question deferred)

For the second time, can we have the Question by the Member for Kisumu West? The Member not desiring to be present, the Question is hereby dropped.

Question No. 085/2022

LAND ACQUISITION BY KENYA AIRPORTS AUTHORITY IN KISUMU

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(Question dropped)

Hon. Members, we will move to the next segment. We do not have any request for Statements and, therefore, we will move to responses to requests. The first response is by the Chairman of the Departmental Committee on Administration and National Security to a request by Hon. Omar Maalim Hassan, the Member for Mandera East.

Is Hon. Omar Maalim Hassan, the Member for Mandera East in the Chamber? I think I can see him. The Chairman, Hon. Mwathi can proceed to respond. Do you not have a card?

STATEMENTS

OCCUPATION OF PRIVATE LAND BY SECURITY PERSONNEL IN MANDERA EAST CONSTITUENCY

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Speaker.

On Wednesday 23rd February, 2022, Hon. Omar Maalim sought a Statement regarding the occupation of private land by security personnel in Barwaqo Location in Mandera East Constituency. The Member sought the following information:

1. Explanation on why the national Government security officers comprising of the General Service Unit (GSU), Border Patrol Unit (BPU) and the Rapid Deployment Unit (RDU) are still occupying and operating from the private land in Barwaqo Location during the current deployment in Mandera East Constituency, thus displacing owners of the land.
2. Whether the security personnel will relocate to a new site which has been provided by the county government and the necessary infrastructure put in place.

Hon. Speaker, my Committee wrote to the Cabinet Secretary and received the following response, which I beg your indulgence on.

Hon. Speaker, in 2013 and 2014, frequent attacks by the *Al-Shabab* militia resulted to loss of lives and destruction of property, including Government offices and vital installations in Mandera Town. Then, the current county leadership petitioned the national Government to deploy officers to fully secure Mandera Town. Consequently, in 2014, the Mandera County Department of Land, Housing and Physical Planning identified and allocated parts of the then vacant areas in Barwaqo Location to the RDU.

The county government put up three pit latrines, a kitchen, officers' mess and other ranks' mess for smooth settlement of the security personnel, besides providing the new unit with four water tanks and a generator for lighting. Later, the National Youth Service (NYS) also allocated an adjacent portion to the Kenya Defence Forces (KDF) officers, who were settled in the site among other units to beef-up security in the town and support border securitisation project along the Kenya-Somalia border.

It is important to note that the said area in 2014 was a vacant open vast land with no human settlement. The demarcations of the plots were only carried out after the officers had settled on the land and after tremendous improvement of security in Mandera Town. The county government has temporary allocated an alternative site to the security personnel at the proposed industrial park, more than four kilometres from the current camp.

However, the officers will relocate after the Government makes arrangement to move heavy deposits of materials, chain links, concrete fencing posts, ballast and sand, which were being

utilised by KDF for border securitisation fencing programme. All of these Government materials are being secured by the specialised sections of the National Police Service (NPS) at the moment, and the officers cannot be relocated until the materials have been moved to the alternative sites.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Maalim?

Hon. Omar Mohamed (Mandera East, EFP): Thank you, Hon. Speaker. First of all, let me thank the Chairman for responding to this Statement. However, Question No.2 has not been answered, and he has confused me and the people of Mandera East more than before. We know the background he has given is a fact, but I am asking when these officers will be relocated to the new improved site. The Chairman has said that the officers will be moved when the materials are relocated; when is that?

We very well know that the materials he has said were meant for border securitization which has never happened. These materials are the property of the KDF...

(Hon. George Aladwa walked out of the Chamber)

Hon. Speaker: Hon. Aladwa! Hon. Aladwa, Member for Makadara, can you please make your way back? Just hold on, Hon. Maalim. Hon. Aladwa, kindly note that it is an embarrassment for a Member to come here, log in and then walk out. Please, it is unfair; take a seat even for 10 minutes. I am very observant. The other day you did the same and ran out very fast. I have been watching you as you stand there, pretending the gadgets are a bit of problem, and you want to take off.

(Hon. George Aladwa stood up and walked around)

Hon. Aladwa, do you want to take off? Please just pay some little bit of attention here. Okay, you can go out now that you have sat.

Proceed, Hon. Maalim.

Hon. Omar Mohamed (Mandera East, EFP): Thank you, Hon. Speaker. I want to state that Question No. 2 of my Statement, which was asking when the security personnel will relocate to the new site, has not been answered. This confuses us further, and this House should note and we are learning that the work of the police is now to guard the KDF materials wherever they are. That is another issue that the Chairman must be able to explain, because the KDF has the capacity to move these materials within a fortnight or within a week to clear the plots owned by private individuals. It is not right that the Chairman misleads the people of Mandera and this House, given the facts that are on the ground.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Mwathi.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Speaker. I want to concur with Hon. Omar that we do not have a specific date, but there is indication that when the Government moves the materials, the officers can leave. I would not know about the issue of security and how the KDF made arrangements with the police to guard the materials. It is most likely that the KDF will also accept that the materials are guarded by the National Police Service since they are all guarding and providing security in that area.

In terms of the border securitisation project, I may not be able to comment on the reason it has not taken off, as mentioned by the Member. I think that belongs to another Committee.

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Hon. Speaker: Very well. The second response was to a Statement requested by Hon. John Mutunga, the Member for Tigania West. The Member did write to request that due to his engagements at the constituency level today, the response be given next week. The Member wrote to request for deferment. I think it is good that he has at least taken the liberty to request that it be read when he is present, and it is good to allow that.

The third response is by the Chairman of the Departmental Committee on Transport, Public Works and Housing to a request by Hon. Benjamin Washiali.

Let us have Hon Pkosing. Hon. Mose, are you responding on his behalf?

Hon. Shadrack Mose (Kitutu Masaba, JP): Yes.

Hon. Speaker: Very well. You may proceed.

DANGERS OF OPEN QUARRIES IN THE COUNTRY

Hon. Shadrack Mose (Kitutu Masaba, JP): Thank you, Hon. Speaker, for giving me this chance to respond. This is a response to a request for Statement by Hon. Benjamin Washiali, the Member for Mumias East, regarding the dangers posed by open quarries abandoned by contractors in the country. I wish first of all to recap the request and then move to the response.

Hon. Speaker: I think you should just go on to the response.

Hon. Shadrack Mose (Kitutu Masaba, JP): Thank you, Hon. Speaker.

I will go straight to the response from the Ministry. I have instructed all the three agencies to submit all quarries under their jurisdiction that are currently in use or have been used and abandoned without restoration and the measures they have undertaken to ensure they have been secured and rehabilitated to safeguard communities living near them against the dangers they pose.

A team of officers from the Kenya National Highways Authority (KeNHA) led by the Western Region Manager visited Mukware and Indori quarries on 23rd September, 2021, and established that indeed they were unsafe. In cognisance of this, I have directed KeNHA to have Mukware and Indori quarries restored and fenced off so that they do not pose any more danger to the communities nearby.

Already KeNHA has procured one-year framework contract at a cost of Kshs50 million for the Western Region to handle any emergencies that may arise, and M/s Malaba Construction Limited has been instructed to fence off the two quarries. The fencing of the quarry in Lubinu, Mumias East Constituency, commenced on 3rd March 2022, and is to be completed by 18th March 2022.

That is my response to the Statement.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker. I would like to thank the Ministry and also confirm that indeed the contractor came on site, especially for Lubinu Quarry, and has indeed fenced it off; and I really appreciate. I request the Chairman to thank the Principal Secretary, whom I dealt with on behalf of the people of Mumias East Constituency and especially those in the neighbourhood.

Another prayer I sought was if there is any element of compensation, because we have already lost lives due to the omission by the Ministry to have acted earlier. This is because if they would have covered the quarry, the death of these three family members would not have arisen. So, this is the only other bit that I would wish... Also, the speed they used to cover Lubinu quarry should also apply to Indori Quarry, because nothing has been done so far.

Hon. Speaker, I confirm and appreciate the Ministry for having moved very fast.

Hon. Speaker: Hon. Mose, any further response?

Hon. Shadrack Mose (Kitutu Masaba, JP): Thank you, Hon. Speaker. I think on the aspect of compensation, we need time to deal with it. Maybe Hon. Washiali will indulge us so that we are able to deal with this specific aspect.

Hon. Speaker: You know for compensation to happen somebody must initiate action. Perhaps, Hon. Washiali, the best situation will be one in which families initiate or lodge claims for compensation so that whoever is concerned might be directed to respond.

Hon. Shadrack Mose (Kitutu Masaba, JP): Thank you, Hon. Speaker. Actually, that is the proper procedure.

Hon. Speaker: Yes, Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Speaker, I stand advised. I will approach the family and see whether we can initiate some compensation claims.

Thank you.

Hon. Speaker: The next one again is a response by the Chair of the same Committee to a request by Hon. Duale, Member for Garissa Township. He is not in the Chamber. Hon. Mose, do you have the response?

Hon. Shadrack Mose (Kitutu Masaba, JP): Thank you, Hon. Speaker. I have the response.

Hon. Speaker: You can just table it. The other one is a request by Hon. Tandaza, Member for Matuga. Is he in the Chamber? The Member for Matuga is also not in the Chamber. Hon. Mose just table all of them.

Hon. Shadrack Mose (Kitutu Masaba, JP): Hon. Speaker, the Report is ready and I will proceed to table it.

(Hon. Shadrack Mose laid the documents on the Table of the House)

Hon. Speaker: Very well. They will come and read. The last segment of that Order is a Statement by the Leader of the Majority Party.

BUSINESS FOR THE WEEK COMMENCING 29TH TO 31ST MARCH 2022

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee (HBC), which met on Tuesday, 22nd March, 2022, to prioritise business for consideration.

Hon. Speaker, let me take this opportunity to officially welcome Members back from the short recess period. It is my hope that we have all had a chance to rest and rejuvenate while also interacting with our constituents, and that we are re-energised for the remaining three weeks.

Hon. Speaker, I wish to underscore the fact that we are in very busy season, as a House. It is my hope that the Committees have had some time to consider most of the business at their disposal to give room for consideration and substantive debate by the House. As we are all aware, time is of the essence at this juncture, and there is need to ensure we fast-track all urgent business.

Hon. Speaker, next week on Tuesday, 29th March, 2022, the following business has been scheduled for consideration:

1. Report of the Budget and Appropriations Committee on the First Supplementary Estimates for the FY 2021/2022;
2. Committee of the Whole House for the following Bills:

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- (i) The Universities (Amendment) Bill, 2021;
 - (ii) The Health Laws (Amendment) Bill, 2021; and,
 - (iii) The Radiographers Bill, 2019;
3. Second Reading of the following Bills:
- (i) The Children Bill, 2021;
 - (ii) The Elections (Amendment) Bill;
 - (iii) The Public Finance Management (Amendment)(No.3) Bill, 2020;
 - (iv) The National Electronic Single Window System Bill, 2021;
 - (v) The Huduma Bill, 2021; and,
 - (vi) The Advocates (Amendment) Bill, 2021.

Hon. Speaker, in accordance with the provisions of Standing Order No.42A (5) and (6), I wish to convey that the Cabinet Secretary for Interior and Coordination of National Government is scheduled to appear before the Departmental Committee on Administration and National Security on Tuesday, 29th March 2022, to respond to the following Questions:

- (i) Question No. 018/2022 by Hon. Abdul Rahim Dawood, MP, regarding the abduction of Mr. Lewis Muthuri of ID No. 26369584;
- (ii) Question No. 019/2022 by Hon. Abdul Rahim Dawood, MP, regarding the pension due to the beneficiaries of the estate of the late PC Japheth Kaumbuthu, Force No. 47163;
- (iii) Question No. 053/2022 by Hon. David Sankok, MP, regarding details of the land allegedly owned by the Deputy President;
- (iv) Question No. 074/2022 by Hon. Godfrey Osotsi, MP, regarding complaints by Transcend Media Group against Safaricom Limited on theft of copyright; and,
- (v) Question No. 079/2022 by Hon. Samuel Atandi, MP, regarding cases of insecurity in Siaya Town, Siaya County.

Hon. Speaker, the House Business Committee will reconvene on Tuesday, 29th March, 2022, to schedule the business for the rest of the week.

Hon. Speaker, I now wish to lay this Statement on the Table of the House.
Thank you.

(Hon. Amos Kimunya laid the Statement on the Table)

Hon. Speaker: Next Order.

CONSIDERATION OF REPORT AND THIRD READING

MENTAL HEALTH (AMENDMENT) BILL

(Several Members stood up in their places)

Hon. Speaker: Is it possible that we can transact this business? There are too many Members who are upstanding. Is it the ones who have completed today's afternoon business?

Hon. Members, consideration of this particular business in Committee of the whole House was concluded and what remained was for the Question to be put, which I hereby do.

(Question put and agreed to)

Mover?

Hon. Joshua Kutuny (Cherangany, JP): Thank you, Hon. Speaker. I beg to move that the Mental Health (Amendment) Bill (Senate Bill No. 28 of 2020), be now read a Third Time.

I also request Hon. Wangwe to second.

Hon. Speaker: Hon. Wangwe?

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I second.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

Hon. Speaker: Next Order. Let us have the Chairperson of the Committee on Delegated Legislation. Hon. Mbui, are you standing in for him?

Hon. Robert Mbui (Kathiani, WDM-K): Yes, I am.

Hon. Speaker: I saw your Chairman here; he is one of those who came here for less than two minutes.

MOTION

APPROVAL OF PUBLIC FINANCE MANAGEMENT (NATIONAL ROADS TOLL FUND) REGULATIONS

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker. I am representing the Chairperson of the Committee on Delegated Legislation.

Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (PFM) (National Roads Toll Fund) Regulations, 2021, laid on the Table of the House on Thursday, 17th February, 2022, and pursuant to the provisions of Section 24(4) of the Public Finance Management Act 2012, and Section 6A of the Public Roads Toll Act, approves the Public Finance Management (National Roads Toll Fund) Regulations, 2021 published as Legal Notice No. 222 of 2021.

Hon. Speaker, allow me to go through the background of this Motion. The Cabinet Secretary for National Treasury, under Section 24(4) of the Public Finance Management Act No. 18 of 2012, is mandated to establish a fund to be known as the National Roads Toll Fund. Section 6A of the Public Roads Toll Act Cap. 407, as amended by the Finance Act of 2020, provides that all tolls except transit tolls collected by persons appointed under Section 4 shall be remitted to the Fund.

The Fund is to be administered in accordance with Section 24 of the Public Finance Management Act, 2012, and the Regulations made thereof. Pursuant to Section 24(4) of the Public Finance Management Act 2012, and Section 6A of the Public Roads Toll Act, Cap 407, the Cabinet

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Secretary made the Regulations which were Tabled in the House on 16th November 2021, and subsequently committed to the Committee on Delegated Legislation for scrutiny. The regulatory making authority therefore met the statutory timelines contemplated under Section 11 (1) of the Statutory Instruments Act.

Firstly, the purpose of this regulation is to establish a dedicated fund pool for meeting Government's payment obligations contracted under project agreements for road development programmes in Kenya, especially, those implemented under the tolling framework.

Secondly, the Fund shall be operated under the budgeting, accounting, reporting and auditing framework of the Public Finance Management Act, 2012. The Regulations provide for the way the Fund will be administered and how money will be paid into and out of the Fund and for the control and administration of the Fund. The Fund and the Regulations make it possible for public-private-partnership (PPP) road tolls to be implemented in Kenya, as it gives visibility of the toll revenues and certainty in governance practices to investors as a key bankability requirement.

Hon. Speaker, pursuant to Section 16 of the Statutory Instruments Act, the Committee conferred with the National Treasury and Planning on 15th September, 2021. This followed with a meeting with the regulatory making authority and a pre-publication scrutiny meeting on 1st September, 2021, in Mombasa to consider the said instruments. A number of concerns that we have so far addressed and incorporated in the final document rose during these discussions. During scrutiny, the Committee took note that the Regulations in summary provide for the following –

- (a) the definitions, objects and purpose of the Fund;
- (b) the capitalisation of the Fund which shall be appropriated by the Cabinet Secretary;
- (c) the sources of the funds; and
- (d) the governance structure of the Fund, which is comprised of the oversight committee, the fund administrator and the secretariat of the Fund appointed by the Cabinet Secretary for National Treasury.

Hon. Speaker, allow me to point out why a fund structure will improve services delivery. The following reasons motivate the preference of a fund structure of a normal budget provision:

- (a) It externalises the funding burden from the exchequer, hence permitting for alternative use of freed resources, while at the same time expanding the scope of public services that can be delivered by the Government.
- (b) It enables matching of services to users, hence realigning the logic in service delivery and service access, and promoting principles of equity and sustainable development.
- (c) It promotes fiscal discipline by ring-fencing specific revenue pools to specific public development objectives without fungibility of funds within the wider exchequer.
- (d) It gives visibility to external partners in infrastructure development – showing how revenues are raised, how they are administered and establishing obligations for revenue certainty and predictability on specific functionaries.
- (e) It permits for revenue performance monitoring and cash sweeps where surpluses are realised, the beneficiary of these surpluses being the wider exchequer.
- (f) It guarantees accountability and transparency in fund administration by subjecting the fund to budgeting, accounting, reporting and auditing frameworks of the Public Finance Management Act, 2012.
- (g) It also links payments to performance of the public service, therefore promoting discipline, accountability and fairness in public service delivery.
- (h) It provides platforms and mechanism for punishing non-performance and thereby preventing resource waste and promoting social accountability to the citizenry.

Hon. Speaker, having scrutinised the Public Finance Management (National Roads Toll Fund) Regulations 2021, in accordance with the Constitution of Kenya, the Interpretation and General Provisions Act Cap 2, the Public Finance Management Act No. 18 of 2012, the Statutory Instruments Act No. 23 of 2013, and Section 6A of the Public Roads Toll Act, Cap. 407, the Committee made the following observations:

First, on the issue of statutory timelines, the Regulations were published in the Gazette on 3rd November 2021, *vide* Legal Notice No. 222 of 2021, submitted to the Clerk of the National Assembly on 11th November 2021 and laid in the House on 16th November 2021, meaning that they were within the timelines set out in Section 11(1) of the Statutory Instruments Act, 2013.

On the matter of public participation, Articles 10 and 118 of the Constitution, Sections 5, 5A and the Schedule to the Statutory Instruments Act, as read together with Standing Order 210, require the regulatory-making authority to conduct public participation and sufficient consultations with stakeholders and persons likely to be affected by the Regulations. During consultation with this regulatory-making authority, that is the Ministry of National Treasury and Planning, they demonstrated through a schedule in the explanatory memorandum that they conducted public participation. The Committee was satisfied with the extent of the public participation.

On the regulatory impact statement, the National Treasury and Planning conducted this regulatory impact statement as required by the Statutory Instruments Act. Having examined the Public Finance Management (National Roads Toll Fund) Regulations of 2021, in accordance with the Constitution of Kenya, the Interpretations and General Provisions Act (Cap. 2), the Statutory Instruments Act No. 23 of 2013, the Public Finance Management Act No. 18 of 2012, and Section 6A of the Public Roads Toll Act (Cap. 407) as amended by the Finance Act of 2020, the Committee therefore recommends that the House adopts the Report approving the Public Finance Management (National Roads Toll Fund) Regulations Legal Notice No. 222 of 2021 in accordance with Section 24(4) of the Public Finance Management Act No. 18 of 2012.

I move and request Hon. Oundo, the Member for Funyula and a member of the Committee on Delegated Legislation to second.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker. I stand to second the Public Finance Management (National Roads Toll Fund) Regulations of 2021.

As the Committee on Delegated Legislation and pursuant to the Statutory Instruments Act, the Constitution and relevant laws, we received, engaged and reviewed the Regulations in line with statutory requirements. We are happy to report to the House that the Regulations met all the requirements of the Statutory Instruments Act, and hence it was very easy for us to approve.

Hon. Speaker, as I stand here, I want to make it very clear to regulation-making authorities that it is always important to do pre-publication scrutiny whereby we engage regulation-making authorities. That is to ensure that gaps and non-compliance with the law and policy are addressed at that point. If that is not done, it becomes extremely expensive to the public because chances are that we will have to go through the entire process when we annul.

It is also good to note that the Committee was satisfied with the extent of public participation. These Regulations have far-reaching consequences or ramifications to the people of Kenya. The Regulations involve people paying funds from their personal pockets for them to use various roads that are put under the Public Roads Toll Act. As we have always said, public participation must be demonstrated and not just perceived. There must be intensive participation between the regulation-making authority and the members of public.

It is important for Kenyans to understand that Government is becoming short of resources; there is scarcity of resources. Therefore, the Government will be unable to provide all the

infrastructure that Kenyans want to have. It is always possible that under any financing model, there will always be other forms of financing models. That is why PPP are going to become the in-thing in years to come. Those who participate in PPPs need to be assured that there are funds to recoup their investment. The best way to recoup their investments is to use the toll charges. Therefore, we do believe, as a Committee and as the MP for the great constituency of Funyula, that the Regulations are in order.

I second the Regulations. Thank you, Hon. Speaker.

Hon. Speaker: Very well.

(Question proposed)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM REGIS SCHOOL RUNDA

Hon. Members, before I allow debate to commence, allow me to recognise the presence, in the Speaker's Gallery, of two students from the Regis School in Runda. They are Joy Jebaibai and Jasmine Mukora. The students are undertaking various forms of activities and learning in the National Assembly for one week as part of a job-shadowing programme which the school undertakes in various institutions during school holidays. On my own behalf and that of the House, I wish them fruitful engagement during the course of their programme.

I thank you.

(Applause)

I note that, as usual, the first on the list is Hon. David ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker. Thank you for acknowledging that I normally come here very early and leave after you so that I can earn from my sweat. Let me also welcome the students to follow the proceedings of the House.

I support this Report on the Public Finance Management (National Roads Toll Fund) Regulations, 2021. But I really want an in-depth enlightenment on what these toll stations will be doing. If my memory serves me well – and it has always done so – we have the fuel levy currently being levied on our petroleum products so that we can maintain our roads. On these new toll stations and the Regulations on toll stations, I do not think Kenyans will accept, because there is a shortage of fools in Kenya. All Kenyans know that we pay for our roads using the fuel levy levied on petroleum products. We will be making double payment. You will pay road levies that are charged on our fuel and then again pay in toll stations. Yes, I know there are some roads that are under PPPs. I think we have to comb through this Report before we adopt it as a House.

Hon. Speaker, I request you, through your powers as the Speaker, to adjourn discussion on this Report to another date so that we can comb through it. That is so that we do not double-charge our citizen in the name of toll stations, yet there is that fuel levy that is specifically to maintain our roads. Despite the fact that we have PPPs in other projects or infrastructure, when it comes to roads, I still have many reservations to make. I request you, because this Report was tabled on the Floor of this House yesterday, to give us more time because we need to go through it.

With those few remarks, I beg that you pend this discussion until a later day. Give us more time to peruse the report so that we do not double-charge our citizens, who already have a heavy burden from food prices and taxes. We tax them on fuel so that we maintain our roads. In the

1990s, we did away with toll stations. We do not want to see them on our roads in the current dispensation. We must have a law of returning them before we pass these regulations, or we remove the tax charged through fuels to maintain our roads.

Thank you.

Hon. Speaker: Hon. Sankok, maybe you have not looked at the Motion. You have said that the Report was tabled yesterday, but the Report was laid on the Table of the House on Thursday, 17th February, 2022. So, it was laid more than a month ago.

Hon. David ole Sankok (Nominated, JP): That is noted, Hon. Speaker. I think we have been so busy because of the forthcoming elections. However, we still need to comb through this Report. We will double charge our citizens. Why were the toll stations removed in the first place?

Hon. Speaker: Now, if you have not gone through the Report with a toothcomb for more than one month, you are likely to finish tooth combing it in the next two weeks.

Hon. David ole Sankok (Nominated, JP): I am well guided and agree with you, but I do not support.

Hon. Speaker: That is okay. The Member who was next on the list and was given the Floor and unfortunately went out is the Member for Butula. Hon Oyula Maero, you were the one who was next.

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Speaker. I intended to contribute on the next Bill, but I will also say something on this one. Road tolls, even though punitive, support the exchequer with revenue. So, it is not a fee that we should dismiss immediately. We need to look at the Report as proposed. Road tolls support the exchequer. Most developed countries have managed to maintain their roads through road tolls. Therefore, it is a Report worth looking at, and it should be adopted by this House because of the support road tolls give to the exchequer. If we rely only on the revenue collected through the exchequer, we cannot maintain our roads properly and construct new roads. Construction of roads is very expensive. Most of our roads have not been good for lack of revenue. There is no short cut. It is we, as Kenyans, who should pay for construction of our roads if we have to avoid borrowing at all. Otherwise, we will keep borrowing and expanding our debt just because we do not want to raise revenue. As I support, we need to get more time to go through the Report. However, it is a worthwhile Report that is seeking the approval of this House.

Thank you.

Hon. Speaker: Member for Lagdera, Hon. Garane Hire. He is not there.

Hon Kimani Ngunjiri.

Hon. Kimani Ngunjiri (Bahati, JP): Thank you, Hon. Speaker for giving me this opportunity. In simple language, what we can say – we have gone overseas and we have seen how roads are maintained – is that there will be two roads. One road belonging to the PPPs and the other to the Government. So, in simple terms, we will have a road for the poor and a road for the rich. When you have money, you can pay and move quickly and if you do not have money, you will use the other road, which is levied at 22 per cent. That is a simple thing to make Kenyans understand. We are dividing the roads. One for the rich who want to go fast where they are going, and the other for the poor that will still be maintained at 22 per cent. That is simple language. That is how I understand. We have been in America and other countries, and we know how toll stations work. We cannot stop them from doing that. I am not saying that we should not pass the regulations. We just need to be careful with the 22 per cent that brokers steal which is meant for maintenance of roads. We know that some people are stealing that money instead of using it to maintain the roads for the poor people. Some of them are using that money to vie for political seats

because they work in the concerned Ministry. As other Members have said, we need to be careful with our understanding. My understanding is that there will be two roads, one for the poor and the other for the rich.

God bless you, Hon. Speaker.

(Laughter)

Hon. Speaker: The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I rise to support the Report of the Committee and the work they have done in terms of approving the Public Finance Management (National Roads Toll Fund) Regulations, 2021. To allay the fears of Hon. Sankok, the essence of tolling is to facilitate the wider picture of roads being done through PPPs, for example, the expressway that is underway. We have agreed that there will be tolls and it has been publicised. Without these regulations, it will be difficult for a private developer to have the tolling in place. Expressway is not the only road that is done through PPP. The road to Mau Summit and other roads will be done through the same model. When that is done, recovery of the investment can only be through tolls. These are predetermined at the point where a developer is given a road to construct. So, the expressway is a public road developed by a private person. The only way of recovering his money is through charging the convenience that people will have when they transit through that road.

I am aware that we had tolls. The most popular one was in Gilgil. They became centers for cartels to make money. The amount of money that was collected was not commensurate to the traffic load on those roads. The rational thing then was to shift that collection from drivers who were paying physically to a fuel levy that was a correlation between usage of road and consumption of fuel. The more you are on the road, the more you consume fuel. Initially the levy was Ksh5.90 per Kilometer, which was increased to Ksh9. It has since been increased further. That money helps in terms of management and maintenance of roads. We do not see the potholes we used to see in the past. There is still some leakage on utilisation, as Hon. Ngunjiri has said. We all see that. Fortunately, MPs have been given the responsibility of overseeing that money through the Constituency Roads Committee. So we, MPs, need to reflect on what we do. Do we oversee the construction of roads in our constituencies to help achieve the objectives set out?

My understanding of these regulations – and I believe I am right – is to facilitate collection of tolls where a road is designated that there would be one on that road and there would be adequate public participation on that. This is to ensure that Kenyans are not double taxed on fuel and at the toll station on the same road.

However, when you opt to use a private road, then you need to be prepared. It is the case when you opt to go to a private hospital. In as much as it is on public land, you are expected to pay some extra money. Much as the Government has committed to provide public healthcare to everyone through the public health system, it is the same rationale. It is the same with buying private water when water has already been provided for through the national system. I, therefore, ask Members not to judge it wrongly and instead, support the Committee. They have obviously looked through all these, gone through public participation, looked through all these pros and cons of having this Report. We can only trust that they have done a good job and support them.

Thank you, Hon. Speaker. I support.

Hon. Speaker: I see no other desire to contribute. I, therefore, ask the Mover to reply. Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker.

I want to thank the Committee for a job well done. On these regulations, what most Members need to understand is that the Committee on Delegated Legislation is guided by the Statutory Instruments Act. We are specifically looking for key things like public participation and statutory timelines. Once they are demonstrated by a statutory making authority, we do not have a lot of leeway. The parent Act, Public Finance Management Act already gives them the mandate to make these regulations and as long as they fit within what is expected by the Committee, we do not go into the gist of the matter.

The idea of coming up with this Fund is an excellent one. At the end of the day, funds are ways by which you can manage these monies. There is more accountability, money is raised and is clear to everyone how much has been raised on these roads and how it is being spent. It is indeed, an excellent idea.

With those remarks, I reply.

(An Hon. Member spoke off-record)

Hon. Speaker: You can only give information to somebody who is willing to be informed. No, he does not want the information. He is no longer in your group. He is now okay.

He has already finished. He has replied. We, however, cannot put the Question. I wanted to get an indication from the Leader of the Majority Party as per the business, as it appears on the Order Paper.

(Putting of the Question deferred)

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, Business No.10 is a continuation. The Committee had already moved. It is only if there is more debate on it.

Hon. Speaker: Has it been seconded?

Hon. Amos Kimunya (Kipipiri, JP): I think so.

Hon. Speaker: I saw the Chair, Hon. Wamunyinyi, hovering all over. Hon. Oyula, are you the one who moved it? No, you seconded the Motion. Hon. Odhiambo has a balance of four minutes.

Next business?

BILLS

Second Reading

THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL

(Hon. Wafula Wamunyinyi on 17.2.2022)

(Resumption on Debate interrupted on 17.2. 2022)

Hon. Speaker: Hon. Wamunyinyi moved it and was seconded by Hon. Oyula, Member for Butula. Hon. Millie Odhiambo was contributing when the House rose, and has a balance of four minutes. Do you feel like you want to donate, Hon. Millie?

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(Loud consultations)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Speaker, because we have many National Government Constituencies Development Fund (NG-CDF) (Amendment) Bills, I was wondering which one it is. However, now that the Leader of the Majority Party has given me the opportunity; one of the things that many Kenyans do not understand is that NG-CDF is one of the best managed funds in the country. I at times hear people who are ignorant talking about how Members have stolen NG-CDF money. It is not easy, unless the Member connives with a NG-CDF Fund Account Manager. It is close to impossible because our role is largely to oversee. Even as I was supporting, we had indicated that there are certain issues that we had hoped would be brought especially, the issue of increment of the Fund. As I support, we are still concerned. The reason why I am having that confusion is because of the different amendment Bills we are having in relation to NG-CDF.

I support.

Hon. Speaker: Hon. Janet Sitienei, do you want to contribute?

Hon. (Ms.) Janet Sitienei (Turbo, Independent): Thank you, Hon. Speaker for giving me this opportunity.

I believe it is about increasing the NG-CDF Fund from 3 to 5 per cent.

(Loud consultations)

Hon. Speaker: Are your machines not working to show you the Order Paper or what? It is No.4 of 2021. Hon. Sitienei, it seems you are through?

Hon. Janet Nangabo, do you also want to contribute to that?

Hon. Janet Nangabo (Trans Nzoia CWR, JP): Yes, Hon. Speaker. I am also not seeing the amendments. The NG-CDF is important. My colleagues handling single constituencies are performing very well. I urge my colleagues to support the NG-CDF Bill so that people can feel it on the ground; it has done a lot of good work.

Thank you, Hon. Speaker.

(Loud consultations)

Hon. Speaker: Hon. Members, reading from the Memorandum of Objects and Reasons, the principal objective of this Bill is to amend the National Government Constituencies Development Fund Act of 2015 to provide for the opening and operating of constituency accounts in order to facilitate third party transactions. The proposed amendment shall facilitate timely and efficient disbursement of funds to constituencies and establish structures for efficient and prudent management of the Fund. This is National Assembly Bill No. 4 of 2021. I do not see many people desirous of contributing to it. Hon. Janet Sitienei, you said you have nothing to say. You have suddenly found something to say?

Hon. (Ms.) Janet Sitienei (Turbo, Independent): Hon. Speaker, thank you for giving me this opportunity. I am sorry; I think I got the wrong Order Paper. I want to add my voice to this Bill. The NG-CDF is a very important fund down in the villages, constituencies and counties at large. Its management is very prudent to enhance efficiency and effectiveness for the purposes of serving the people of this nation.

Just before I make my comments, the NG-CDF funds are well distributed within our constituencies. People think it is a better fund than any other — not even county governments' fund. The funds reach communities. They are able to feel them through school and security projects and through bursaries. Bursaries are loved by the people of this nation because they help poor people. The opening of that account is going to help in the management of the fund. The staff are always forced to open another account so that they can manage the fund independently of the project money. Opening another account will enhance efficiency in managing the NG-CDF account.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Mbui, do you want to contribute now?

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker. I was struggling to understand the Bill. I rise to support it. The Fund has been a life-changer since inception. People in rural areas who were not getting any development were able to suddenly start seeing things being done in their regions. This is a Fund that reaches the poorest people and the farthest corners of the country. If we talk about devolution in this country, the real devolution is through NG-CDF. In fact, that is why in the consideration of the Constitution there was a lot of clamour for devolution. Unfortunately, 10 years later we can see how it has been poorly implemented.

This amendment proposes opening of two accounts: one account to receive money from the National Treasury for onward transmission to projects and a deposit account for handling third party payments. This has been a major issue of concern. For some reason, NGCDF payments may be returned. How then would such payment be reverted? Sometimes, mistakes do occur. How does such money get paid back to NG-CDF? The Bill proposes a way by which money can be paid back to NG-CDF through a separate account called a deposit account, so that all NG-CDF money can be well accounted for. I think this is a great idea by the Committee. It will make expenditure of NG-CDF money more transparent.

I know there is another Bill that also deals with NG-CDF issues. Going forward, we may need to consider the possibility of increasing the allocation. If a system works, the English say do not mend it if it is not broken. The NG-CDF works so well, but the devolution system has so many challenges. Look at the allocations that are disbursed to constituencies. In Machakos County, the eight constituencies get about Ksh130 million each but the county government receives in excess of Ksh10 billion. Any direction you look — north, south, east and west — the projects you come across that have helped people are the ones that have been funded by NG-CDF. This is a Fund that needs to be protected. We need to look at ways of improving it. We should strengthen areas with weaknesses so that the Fund can continue serving Kenyans. When we will be amending the Constitution after Azimio la Umoja takes over government leadership, we may need to propose that NG-CDF is made constitutional so that we do not end up in court every now and then.

With those few remarks, Hon. Speaker, I support.

Hon. Speaker: Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker, for giving me this opportunity to support this very important Fund. I do not need to overemphasise the importance of NG-CDF. In terms of distribution, it is found in every corner of this country. Its effect has been felt by people on the ground. Time without number, it has assisted special schools and persons with disabilities (PWDs). I get requests from PWDs and when I forward the same to respective Members of Parliament representing respective constituencies, the PWDs are assisted efficiently.

Opening an account for the sake of efficiency is very important. Unlike other funds, like that of county governments and the National Youth Service that grapple with pending bills, we have not had any complaints from contractors in projects carried out by NG-CDF. It means this is an efficient fund. The small complaint we have been having is because of delays in paying school fees through bursaries. Sometimes students are sent back home because of delays by the Exchequer. Opening an account that will enhance efficiency is something we have to support. When the Bill on increasing NG-CDF allocation comes to the House, I am sure all Members will support it. Unlike other funds where we have seen more corruption, you rarely get corruption complaints in respect of NG-CDF. We do not really have to overemphasise the importance of the Fund.

Nominated Members of Parliament do not have NG-CDF allocations. As a representative of the nominated Members of Parliament, I support NG-CDF. I hope our elected counterparts will reciprocate so that in the future we also have a kitty. We are normally in a quagmire. Our counterparts can undertake projects; for us, we only come to the House to contribute to Bills, but there is no means to assist our constituencies. As someone who represents PWDs, if I meet a PWD crawling on the streets I have no fund to assist him or her. Therefore, I request the County Women Representatives (CWR) through the National Government Affirmative Action Fund (NGAAF) and the National Council for Persons Living with Disability for some assistance. We should be given a kitty. In fact, there is the National Fund for the Disabled of Kenya which owns a lot of property such as Rehema House which is under the chairmanship of a person who is not disabled. That fund should be brought here so that Members of Parliament representing persons living with disabilities can manage it.

Otherwise, Hon. Speaker, I am being distracted by Hon. Wamuchomba. She is complaining about what I have said that the National Fund for the Disabled people in Kenya is being managed by a normal person. She is the sister of the current President, but she is not a person living with disability. We should be given that fund so that we manage it from this House.

Hon. Speaker, I support so that we can have efficiency in terms of management of the NG-CDF.

Let the Member raise her point of order. I am here to answer.

Hon. Speaker: Are you through with your contribution?

Hon. David ole Sankok (Nominated, JP): Not yet. I just heard her complaining that she has a point of order.

Hon. Speaker: You do not hear. Just proceed with your contribution. I want to avoid us speaking about generalities. You know, I read out what are the objects in the Memorandum of Objects on Reasons, You can see what is proposed is just about the opening of that account for efficiency while transacting with third parties. So, if we now contribute about what the NG-CDF has done, then we are going to the Act itself and not the object of this amendment.

So, let us limit ourselves to this debate. I believe the Chairman in moving must have explained some of the difficulties that must have been experienced by third parties having transactions with the Committee; that will be a bit more specific.

Hon. David ole Sankok (Nominated, JP): Hon. Speaker, you have guided me well with your immense wisdom. I am already through with my contribution that we really need that efficiency so that we do not delay the payment of contractors and workers. Let us not have corruption cases.

I support and urge the House to join in this.

Hon. Speaker: Let us have the Hon. Member for Kinangop

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Speaker for this opportunity to contribute and support this amendment to the Act of NG-CDF. As much as there is your advisory on the Memorandum of Objects and Reasons of this amendment Bill, allow me first to applaud the founder and the person who brought this Act to Parliament because he is my county man; the former Senator for Nyandarua, for this wonderful initiative. This is the true story of transformation in our constituencies because of the history that was in this country whereby Government money was taken to specific areas for support. This initiative has brought about balance in the whole republic because it does not matter which side of the divide an MP belongs to. They can access Government funds because it is law that every constituency must get about 2.5 per cent of the monies that are expended by the Government.

Hon. Speaker, the object of this amendment Bill is just to bring efficiency into how the NG-CDF is run by committees and the behaviour of the board. Even as I applaud and support the proposed amendment, one thing that has caught my eye that I am pleased about is the conduct of the NG-CDF committee members. Section 43 indicates how members should behave and why they should be removed from the committee in the event that a member becomes a nuisance and is found to be sowing seeds of discord. At times persons are selected to be members of the NG-CDF committee and they become so difficult so that the running of the committee and the fund becomes difficult.

I support the efficient measures that have been introduced in this Bill. I am not trying to pre-empt or anticipate what is in this Bill as it is in this House on the issue of increasing the fund to about 5 per cent so that we can increase the number of projects that we are doing in our constituencies that have been the game changer in our respective constituencies.

Hon. Speaker, I support the proposed amendment.

Hon. Speaker: Member for Ruiru.

Hon. Simon King'ara (Ruiru, JP): Asante sana Mhe. Spika kwa kunipa nafasi ya kuchangia Mswada huu haswa tunapongelea maendeleo katika maeneo Bunge yote hapa nchini.

Hon. Speaker: Hoja ya nidhamu.

You pressed an intervention? When you press an intervention, it shows here. Proceed Hon. King'ara.

Hon. Simon King'ara (Ruiru, JP): Asante Mhe. Spika. Ninaomba unichunge ndiposa niweze kuwa na utaratibu wa kunena mawili matatu yale yataleta maendeleo kule mashinani. Nilikuwa nagusia kusema kuwa, ukienda katika maeneo yoyote ya Bunge, hautakosa maendeleo hasa ya kiusalama, masomo au barabara inayoelekea kwa shule ikiwa imetekelezwa kutokana na utaratibu unaopatikana wa pesa za NG-CDF. Huu ni mgao unaopewa maeneo Bunge kupitia kamati zilizotengwa.

Mhe. Spika, ni vizuri nichangie kwa kusema kuwa, ni kweli kwamba wakati fedha imetengwa ni vyema kuwa na utaratibu mwafaka, nao huu utapatikana wakati ambapo mianya ile inatumika na walaghai imezibwa na watu kuhusishwa haswa watu wenye kutoka eneo lile. Nimeshukuru sana kuona katika kamati ile lazima mwenye kikao kile awe ametoka katika eneo Bunge lile.

Vile vile, kuna nafasi ingine nzuri ambapo ni lazima kuwe na mtu kutoka serikalini ambaye atakuwa ni jicho la Wizara ya Fedha ambaye atahakikisha kuwa zile fedha zimefika mashinani na kutekeleza majukumu yale yanafaa. Hata hivyo, jambo lile sikupata hapa na ningependa lijumuishwe kwa uzito ni kuwa wakati wa mgao huo uwe na usawa. Hii ni kwa sababu, ukiangalia katika eneo Bunge langu la Ruiru...

Hon. Speaker: Do you know what we are discussing? Have you read the Bill?

Hon. Simon King'ara (Ruiru, JP): Ndio, nimesoma ndiposa nikasema ile nimekosa...

Hon. Speaker: No. You are contributing to a non-existent debate. This one is just talking about the opening of that account. So, if you want to complain about other things, do not when you are contributing to this Bill because the contribution must have relevance to the business.

Hon. Simon King'ara (Ruiru, JP): Asante Mhe. Spika kwa kunirudisha kwa laini. Ni jukumu lako kufanya hivyo ndipo tuwe na utaratibu kwa kuchangia. Basi ni vyema kuwe na utaratibu jinsi vile umenikosoa. Kusema ukweli, kusipokuwa na utaratibu kama vile umenikosoa, hata ile pesa haiwezi kupatikana. Kwa hivyo, utaratibu ule umetengwa na kuhusisha watu mbalimbali katika eneo bunge na Serikali kuu. Mhe. Spika, tukipitia mrengo huo ni kama tutaweza kutumia zile fedha kihalali na kisheria. Watu ambao walileta jukumu hilo, walikuwa wameona mbali. Tusipoweka watu ambao wana ujuzi kutoka pande zote mbili, wale wa umma na Serikali, hatuwezi lenga malengo yale yametengwa kutekelezwa na pesa zile.

Kwa hivyo, nimesimama hapa kuchangia na kusema ni vizuri kuendelea kuunda miundo mipya, ile itafanya zile pesa ziweze kutekeleza miradi vilivyo.

Asante, Mhe Spika. Naunga mkono Mswada huu.

Hon. Speaker: Member for Nyando.

Hon. Jared Okelo (Nyando, ODM): Hon. Speaker, I thank you very much. I support this Bill on the creation of a third-party account by the NG-CDF. At the advent of NG-CDF which was then CDF, there were no specific roles for the funds. In retrospect, Members of Parliament ended up doing so many things using that same money. Some of them have now been taken over by the national Government through the Executive and devolution through the county governments.

I am a Member of the Special Funds Account Committee. We re-evaluate the usage of NG-CDF. In the course of our interaction with the fund managers and various committees, we realised that some constituencies bought tractors or graders in the past to work on their roads. Part of this function has been taken over by the county governments. They have these machines. Some people hire them from these constituencies. They receive monies which they cannot bank in this major or primary account which is funded by the NG-CDF Board. This third-party account will really help them to have somewhere to channel these monies.

Some of them bought tractors to help plough land for agricultural use by the constituents. They receive monies. They have absolutely nowhere to bank them. They are just misused by those who receive them without the knowledge of the Committee. This is an eye-opener. It will go a long way to help constituencies manage extra monies that will be got from other activities. We have certain constituencies which dug boreholes in certain schools or communities. They receive Ksh3 or Ksh5 per a 20 litre jerrycan. They have nowhere to bank these monies. For instance, if you want to set up an M-PESA account, you must have a bank account, so that money is channelled to a paybill that takes you to a specific bank account. This is very important.

Having underscored the role of this new bank account that is yet to be established, allow me to add that Kenyans are still grappling with the roles of various institutions. They have not distinguished the role of the national Government and county governments. Up to now which is 12 years down the line in our new constitutional order, they still ask us why there is no medicine in their health facilities. They also ask why they do not have water or their roads are so dilapidated. They do not know the role of a Member of Parliament. When people were going into elections in 2013, they thought that the Senate was the centre of power. Even those who had read and midwived the Constitution 2010 then had the same notion. Five years down the line with devolution, all of them are trooping back to the counties after they realised that the Senate does not have much power. The governors have it. Even as we try to re-orient these funds, it may also be incumbent

upon all of us to enlighten the electorate on the roles of a Member of Parliament, governor and what the Executive, through the national Government, can do.

Therefore, I support this Bill, Hon. Speaker.

Hon. Speaker: Member for Kiambu.

Hon. (Ms.) Gathoni Wamuchomba (Kiambu CWR, JP): Thank you, Hon. Speaker for giving me the opportunity to contribute. I rise to support the amendment of the National Government-Constituencies Development Fund Act 2015 to provide for the opening and operating of the constituency account, in order to facilitate third-party transactions.

In as much as I am not a Member of Parliament who controls this fund, I support this amendment. When the suppliers and contractors of NG-CDF who are also our voters have not been paid, the pressure comes to us, as leaders. Any inefficiency in NG-CDF also affects any other leader whether it is a governor, Woman Representative or Senator because the people do not differentiate the roles which are played by different leaders. Therefore, every time they see any leader, they throw their problems to us. If the amendment of the NG-CDF will provide for efficiency in its operations, it will bring solutions to the many problems that we have with the contractors and suppliers. As a leader who represents the great Kiambu County, I support this kind of amendment.

It is good for me to note and alert the House that the NG-CDF is a sister of the fund that is controlled, managed or patronised by Women Representatives. If there is anything that the NG-CDF does not do efficiently and effectively, it affects the deliverables of the sister funds that are available. It is also a challenge for us who patronise the NGAAF to learn from the proposals that have been brought into this House to provide for efficiency in the management of national funds. We can pick a lesson from these proposals and then put them into other sister funds like the NGAAF, so that we can provide efficiency to the people who expect us to do so.

I humbly support this Bill. I congratulate the Committee and the proposer of the Bill for this wonderful proposal that will inform us on applications of other national Government funds. Thank you, Hon. Speaker.

Hon. Speaker: Member for Saku.

Hon. Ali Rasso (Saku, JP): Thank you very much, Hon. Speaker. I rise to support the National Government-Constituencies Development Fund (Amendment) Bill. The NG-CDF is the most important Fund in this country today that has done wonders. It has done better than billions that are given to our counties that receive Ksh8 billion, 10 billion up to 15 billion that is received by Nairobi County. The Ksh100 million that we receive in our constituencies has done wonders.

What is the reason? The first reason is management of these funds. The Members of Parliament are patrons as opposed to being the executioners of how those funds are used. Secondly, it is the committees that are elected from across the constituency.

Thirdly, there is ownership about the NG-CDF where constituents know that as soon as that money arrives in Saku Constituency, it is theirs and they want to protect it.

Through this amendment, I see good progress particularly in terms of opening accounts and retaining funds that are not used with time as opposed to returning them to the Exchequer so that you demand it year by year.

There are a few concerns. The first one is that this amendment should not introduce any bureaucracy more than it is necessary in the management of NG-CDF. Today, there are many contractors in the counties. Many contractors like working with the NG-CDF because that money is readily available and once a project has been completed and inspected, their money is paid as opposed to the billions in the counties that take almost years for the contractors to be paid.

Therefore, my proposal is that we see it that within 45 days, once funds have been allocated to the project, the NG-CDF Board is informed. That is okay in so far as coordination and management of the Fund is concerned. But it should not introduce any new bureaucracy.

The other progressive thing I see in this amendment is the introduction from the NG-CDF Board that a particular constituency having given out its money, at disbursement, a single cheque is signed where they confirm that the money has been received by constituency X or Y.

The other issue which is also progressive is identifying the role of the constituency committee where in the normal sense they are just ordinary citizens, but they are given powers by the NG-CDF Board to have accountability in terms of management of the NG-CDF.

The other issue that I note in this particular amendment is spelling out the duties or the role of the Board. This is really important because the first one is to consider and approve proposals submitted by constituencies. Sometimes there are inconsistencies on how the NG-CDF is applied because they may approve constituency X to buy buses, vans or ambulances, but do not allow constituency Y to do the same.

In terms of how the funds are used, there is need to have some uniformity so that once project proposals are submitted, it is done through public participation. The Board cannot arrogate itself all the functions of public participation to reject matters that constituents find critical to be included in their projects.

[The Speaker (Hon. Justin Muturi) left the Chair]

[The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu) took the Chair]

Finally, this amendment is necessary, important and comes at the tail end of the life of the 12th Parliament. Then NG-CDF, at 2.5 per cent has done so much. What would we see if these funds are increased to 5 per cent or 10 per cent? The Fund addresses matters of national concern. It addresses education and security matters. What are the bigger purposes that money for a country can be used for? For that matter, we should be a budget-making Parliament to increase the allocation of NG-CDF in the national Budget.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well spoken, the Member for Saku, Hon. Rasso Ali.

Now, the Floor goes to the Member for Mogotio, Hon. Tuitoek Kamuren.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this particular amendment.

The role of the NG-CDF in the country's development has been great. We all know that since the introduction of this particular programme by the Government and management by Members of Parliament, we have seen a lot of great improvement especially in the education sector. In my Mogotio Constituency, in the last four years, we have been able to construct over 150 classrooms. So, the way this Fund has been managed on the ground has made great contribution. It has been one of the great changes. It has been the greatest thing because I remember before the introduction of the NG-CDF, many institutions could not even construct a classroom. People used to wait for a long time to get help from the ministries. But since the Fund was introduced, a lot of improvement has been done.

The current amendment which is geared at bringing in new accounts to attract other donors to chip into the Fund is welcome. It will go a long way in enhancing and improving the amount of money available to do more work in the constituencies. I know this particular Fund is managed by the project management committees at the school level and chief's level and this has allowed ownership from various institutions, primary schools, secondary schools to chiefs. The project management committees have been very good. Also the fact that the national Board has been closely monitoring the way the funds are utilised has minimised their loss.

The idea of increasing the amount of money available through this amendment is highly welcome. If this particular Fund can be enhanced from the current 2 per cent of the Budget to 5 per cent, it will realise greater development. It could be the same way we are thinking about increasing money allocated to counties to 35 per cent and increase the amount allocated to NG-CDF because it makes a lot of contribution towards the development of education infrastructure on the ground. It has also made great contribution towards keeping students in school. I know very many families depend on this particular Fund for bursaries.

In my constituency, about 7,000 students benefit yearly from this Fund through bursaries. If this particular Fund could be enhanced by donors coming to give more contributions, it could improve the monies to students in schools. It has actually kept many students in school. Right now in my constituency, many parents like this particular Fund as it has kept many students in schools.

Right now like this year, in my constituency and after coming through the period of COVID-19, many parents are experiencing a serious drought. Lack of water is becoming serious. Hopefully, there will be rains very soon. Also, there was a bit of crop failure. To keep students in school, it will mean that funds from the NG-CDF should be available in schools when we open in May. Therefore, this Fund is very crucial to many parents. It enables students to remain in school and also reduce the many times we do *harambees* for education purposes in the constituencies. Any amendment which can improve the availability of funds will go a long way to support this project.

Therefore, I stand to support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let me have the next Member to speak on this. Member for Mwingi North, Hon. Nzengu Musyimi. You have the Floor.

Hon. Paul Nzengu (Mwingi North, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I also rise to support this proposed amendment to the National Government Constituencies Development Fund Act.

In supporting, I appreciate that the NG-CDF is doing a commendable job back in our constituencies, compared to other Government monies that come to our constituencies or counties through the county governments. If you look at the performance of most constituencies, you will realise that monies that come through the NG-CDF is the money that is helping most of the poor students from our constituencies, considering that a specific amount of money is usually allocated for bursaries.

As a matter of fact, the re-election of most of us who are first term MPs will largely depend on performance in bursaries. So, I support the proposal to increase the amount allocated for the NG-CDF to 5 per cent. I also appreciate the fact that NG-CDF funds are easily accessible or easily reach the people. Most of the procurement is done at the constituency level. Young contractors who are new in the profession usually get an opportunity. I think it plays a big role in empowering women and the youth.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, having no other Member interested to speak to this, I call on the next Order. I am aware that the Hon. Member for Butula has spoken to this. Hon. Member for Funyula, do you want to speak to this one or the other Order? Very well. Let us have the only Member for Funyula, Hon. Oundo Ojiambo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I was getting worried how come my name had disappeared. I stand to support the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No. 4 of 2021). Just to put it on record, the Bill seeks to tidy up some loose ends that had existed in the Act since its operationalisation many years back. Essentially, it is just like putting on a dress then your body shape changes over time. You have to keep on taking it to the tailor to fix it so that you do not look out of place. Over time, the NG-CDF has done tremendous amount of work on the ground. On the contrary, there have been cases of operational challenges. I trust and believe the amendments contained in this Bill will address those challenges.

If you look at the various clauses in this Bill, when the NG-CDF committee at the constituency level receives money, it comes to the accounts of the committee either in lump sum or in bits. Ordinarily, when you look at the allocation, we have money for administration, we have funds for monitoring and evaluation, and we have funds for projects. If it goes to one account, there are challenges in operation. I think it is the Committee's wisdom to propose in this Bill the opening of operations accounts. I believe, funds meant for administration and funds meant for monitoring and evaluation will be directed to that account. That ensures salaries are paid on time and statutory deductions are made on time. It ensures things like sitting allowances for committee members are paid on time. It allows basic things to be paid on time.

The second innovative provision in this account is what we are calling the deposit bank account. Funds that are supposed to be expended at a later date, for example gratuity, are paid on this account. I say so because, when I took at Funyula Constituency, the new committee was taken to court by employees and members of the former committee. They argued that gratuity had not been paid. When we sought advice from the Board here, we were told that by then there was no specific provision to set aside money for gratuity. Consequently, it made it difficult for us to use our funds to pay old debts and former employees. The provision that has been put here essentially addresses this issue. Many a times what we have been doing in the recent past is, by the end of each financial year, pay gratuity to these members of staff. It robs them that lump sum payment they ought to get at the end of their term. Therefore, this is a very good provision to allow the amount to be put in a running account for them to be paid at the end of their term of five years so that they get some lump sum amount. If they are re-appointed, they are in a position to start their lives well again.

In the deposit bank account, I have been informed and educated that we could use that bank account to deposit money that we collect, the money that the NG-CDF committee collects from charging to buy tender documents. You will have some running projects that probably bring in some revenue. Instead of that revenue disappearing in some places, we can deposit it in that account. Many constituencies have buses and NG-CDF vans which they occasionally tend to hire for some private functions. Since they had nowhere to deposit that amount, there was the possibility of that amount ending up in the hands of drivers or somebody else. It is not accounted for. Actually, it gives room for the constituencies to start having what we call Appropriation-in-Aid (A-in-A). It will become part of their income and they will put it somewhere else.

Again, the rest of Clause 5 basically deals with issues of the signing mandate and authentication instruments providing for a Fund Account Manager, a District Accountant and one

of the Fund committee members. It ensures there is accountability and everybody is able to check each other in the event of any problem.

Again, Clause 7 talks about how we will manage projects. Indeed, that is okay. However, I have a challenge. I wish the Committee listens to me carefully. We will make arrangements to make changes on two accounts at the Committee of the whole House stage. The first one is in Clause 9 (1) which states that each constituency shall within three months, or such other time as may be determined by the Board, after the official release of the Budget ceilings for the constituencies, submit a list of the proposed constituency projects to the board.

There are operational challenges here. Many a times the ceiling comes much late in the year. We pass the Budget in July and by the time the ceiling officially comes from the NG-CDF Board, it is October. If you give us another three months, it means that the earliest the proposals can be submitted is December. We will have lost half a year. Therefore, there will be no value for money to the constituents for that particular financial year. I would suggest that since there was prior public participation that was done under the existing law, we make arrangements to reduce it to one month so that we do not lose more time on it.

Under Clause 10, we seek to make amendments to Section 32 that empowers the constituency committee to determine quantum of instalment for disbursement for projects within the constituency, taking into account the disbursement received and the project requirements. Again, there are operational challenges here. There could be a lot of mischief. We are going to have stalled projects. It is possible at any given time for the Board not to disburse the entire amount in full? So, if we allow piecemeal disbursement of funds to projects, it means that there will be many stalled projects in constituencies. It will beat the essence of the NG-CDF where projects are implemented expeditiously and to completion. I want the Committee to relook at it and delete this particular amendment because it is going to cause so many problems.

We are going for a changeover. There will be new MPs and there will be those of us who will retain their seats. With this arrangement, it means that future committees will starve ongoing projects funding on the argument that they are allowed to do quantum release. Clause 12 deals with amendments to Section 36. This is one of the best amendments. Many of the district quantity surveyors or sub-county architects are extremely busy and committed to so many projects at any given time. They do not give NG-CDF projects the attention they deserve. Many times when you call them to come to supervise and certify works, they take months to come. When you ask them to generate Bills of Quantities (BQs), they are rigid in their approach and they do not take cognisance of local circumstances. Therefore, allowing private practitioners to prepare documents and undertake the relevant process is a welcome approach even though there are no private practitioners registered by the Government or professionals registered by their respective professional organisations anchored in law.

Finally, Clause 15 allows the increase of money for bursary beyond 35 per cent. This may look good, but it may be abused. I request the Committee to relook at it, retain the current ceiling and allow payment of education from monetary or operational account.

Thank you. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. On my request list, we have the Member for Gatanga. We will have him then the Mover will reply. Hon. Nduati.

Hon. Joseph Nduati (Gatanga, JP): Thank you, Hon. Temporary Deputy Speaker for giving me a chance to make my contribution. I also support the amendment. Now, we will be able to undertake many projects in the constituencies. The NG-CDF has really supported us, especially as MPs. We have said in the past that the visible projects in the constituencies are the ones we fund

with the NG-CDF. Currently, we are facing a big challenge because the NG-CDF Board has not disbursed all the funds. According to the reports we received recently, the price of steel, cement and other building materials...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Member for Gatanga, you were consulting and I am aware. We are on the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No. 4 of 2021). The object of the Bill is a proposal to introduce a separate account. I know we have so many Bills.

Hon. Joseph Nduati (Gatanga, JP): Sorry, Hon. Temporary Deputy Speaker. This is what I was interested in and I was contributing to the wrong Bill. I apologise.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): It is still the same Bill but look at the objectives of the Bill. We are on the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No. 4 of 2021).

Hon. Joseph Nduati (Gatanga, JP): Thank you. I have picked the wrong Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You have made good contributions on NG-CDF.

Hon. Joseph Nduati (Gatanga, JP): As Members, we are facing challenges, especially this year. This month prices have increased and I do not know what we are going to do. From the Board, I do not know if we are going to suspend some of these projects. The way the projects are formatted, I am sure most of the Members...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You have made your point. I am sure you will want to look at the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No. 4 of 2021). All of us support what the NG-CDF has done in our constituencies.

Hon. Members, there being no other Member interested to speak to the Bill, I call upon the Mover to reply. It has been officially communicated that Hon. Oyula, Member for Butula will reply on behalf of the Chairperson.

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker. I was asked by the Chair to reply on his behalf. I want to start by thanking all the Members who have contributed to this Bill. I am grateful that they have all supported the Bill. That is important for the constituencies. This Bill proposes operational accounts that will assist in the management of funds at the constituency level.

Therefore, I beg to reply. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. The Bill having been moved, debated and replied, I now procedurally direct that the putting of the Question on the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No. 4 of 2021) be deferred.

(Putting of the Question deferred)

Next Order.

Second Reading

THE ELECTIONS (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

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Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I had discussed with the substantive Speaker about this Bill. The Departmental Committee on Justice and Legal Affairs has just finished its meeting on this Bill and they are agreeing on the format of the Report which can be tabled in the House on Tuesday next week. We agreed that in the interest of Members having the benefit of going through it, we move this Bill to next week. So, I request that it be stood down for now.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. With that request from the Leader of the Majority Party and being aware of how far the Committee has gone with its Report, I order that the Elections (Amendment) Bill (National Assembly) No.3 of 2022) for Second Reading be deferred.

(Putting of the Question deferred)

Second Reading

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I call upon the Chairperson, Departmental Committee on Finance and National Planning to move.

Hon. David Mboni (Kitui Rural, CCU): I am not the chairperson.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are not the Chairperson, but he has communicated to us that the Member for Kitui Rural, Hon. Mboni Mwalika, will be moving.

Hon. David Mboni (Kitui Rural, CCU): Thank you, Hon. Temporary Deputy Speaker.

Public audit is an integral part of public finance management in Kenya. The Public Finance Management Act, 2012 provides a framework for effective management of public finances by the national and county governments.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Mboni Mwalika, for record, and as a matter of procedure, you need to move.

Hon. David Mboni (Kitui Rural, CCU): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the Public Finance Management (Amendment) Bill (National Assembly Bill No.39 of 2020) be now read a Second Time.

Public audit is an integral part of public finance management in Kenya. The Public Finance Management Act, 2012 provides a framework for effective management of public finances by the national and county governments and has spelt out the oversight responsibilities of Parliament and the county assemblies.

The Office of the Auditor-General is a critical office in that it ensures Parliament carries out effective oversight of our public resources. Therefore, the Office of the Auditor-General effectively plays its role. There is need to give that office sufficient time to carry out audit and prepare quality audit reports.

The main objective of the Public Finance Management Bill, National Assembly No.39 of 2020 is to amend the Public Finance Management Act, 2012 in order to review the time for submission of financial statements to the Auditor-General from three months to one month at the end of the financial year.

The Auditor-General is required to carry out the mandate of audit of public sector accounts within six months after the end of the financial year, pursuant to Article 229(4) of the Constitution.

However, the Public Finance Management Act 2012 requires accounting officers for public funds to submit their financial statements to the Auditor-General within three months, and consolidate the financial statements within four months after the end of the financial year. This reduces the time the Auditor-General has to audit their accounts to three months, thus making it difficult for him to meet the constitutional timelines and effect the scope and quality of audit reports.

The Bill solves the above problem by ensuring that the Office of the Auditor General has adequate time to carry out required audits, and prepare required reports for submission to Parliament and county assemblies.

The Public Finance Management Act (Amendment) Bill No.39 of 2020 went through the First Reading on 25th March 2021, and thereafter it was committed to the Departmental Committee on Finance and National Planning pursuant to Standing Order No.127. The Bill has 15 clauses and proposes the following amendments:

Clauses 2, 3, 4(b), 6, 7, 8, 9, 10, 11, 13, 14 and 15 propose to reduce the time required to submit annual financial reports by the accounting officers of national and county funds from within three months to one month.

The clauses amend sections 23(1), 24(10)(b), 68(2)(k), 81(4), 82(3), 82(4), 84(3), 115(1), 116(7)(b), 149(2)(k), 164(4), 165(3) and 167(3).

Clause 5 of the Bill proposes to review the time required to submit consolidated annual financial statements by the national and county treasuries pursuant to Sections 80(4) and 163(4) from within four to two months.

Clause 4(b) of the Bill amends Sections 68(4) of the Act to include the Auditor- General in the list of those to whom the National Assembly should submit the report submitted to the Controller of Budget on the implementation of the Budget by the national Government.

Clause 4(c) of the Bill proposes to reduce sanctions from non-compliance by accounting officers with regard to implementation of recommendations made by Committee of the National Assembly in respect of our reports submitted by the Controller of Budget under Article 228(6).

Placement of adverts in the print media was done on 20th April 2021 requesting for comments on the Bill from members of the public and relevant stakeholders, pursuant to Article 118(1)(b) of the Constitution and Standing Order No.127(3). The Committee received 11 written memoranda and further discussed the Bill with stakeholders on Thursday, 15th July 2021 at Emara Ole Sereni Hotel, Nairobi, to consider their contribution to the improvement of the Bill. The stakeholders included Institute of Certified Public Accountants of Kenya (ICPACK), Kenya Ports Authority, Ministry of Foreign Affairs, Public Service Accounting and Standard Board, National Government Consolidated Development Fund Board, Kenya National Commission on Human Rights, heads of accounting and financing in the public sector, Kenya Rural Roads Authority, Office of the Auditor-General, the National Treasury and the State Department for Planning.

Most stakeholders were opposed to the amendment noting that it would be difficult to submit the reports within the new timelines for various reasons, including the late release of funds to public entities by the National Treasury. Some public entities are not connected to the Integrated Financial Management Information System (IFMIS). Some still use manual systems and hence, require time to feed information to the system. Some public entities have offices spread all over the country and hence, it takes time to collect data from the offices and prepare the reports. Most finance and accounting units in public entities are under-staffed among other reasons.

The stakeholders proposed that the time should be revised from one to two months to enable accounting officers to prepare the reports and take them for quality review by the National

Treasury before submitting them to the Office of the Auditor-General. Further, they propose that an accounting system should be implemented.

Additionally, the Office of the Auditor-General should be devolved, and adequately staffed to effectively discharge its mandate. Details of the stakeholders' submissions are contained in Part III of the Report. All the stakeholders' comments were put into consideration while preparing the proposed committee's amendments, while some of the proposals were adopted and formed part of the proposed Committee's amendments.

While considering the Bill, the Committee noted that issues raised by stakeholders were varied. We therefore reviewed the timeline for submission of financial statements to the Auditor-General from one month to two months. The Committee observed that there is need to put measures in place to ensure that the Office of the Auditor-General submits reports to Parliament and county assemblies within the constitutional timelines. This will make it possible for Parliament and county assemblies to have timely information on whether allocated funds have been used in compliance with the laws and regulations they have passed for the benefit of the people they represent. It will also enable legislators to make informed budget decisions.

As I conclude, allow me to express my special thanks to members of the Departmental Committee on Finance and National Planning and the staff of the Committee for their significant role towards the scrutiny of the Bill and production of the report. The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support during its sittings. The Committee further wishes to thank all stakeholders who participated in consideration of the Bill. I call upon the House to support the Committee's amendments to the Bill during Committee of the whole House stage.

I beg to move and request Hon. Kimunya, the Leader of the Majority Party, to second. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I call upon Hon. Amos Kimunya, the Leader of the Majority Party and the Member for Kipipiri, to second.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second this Bill. I thank the Committee for the work they have done in trying to ensure that we speed up the processing of financial records and submission of the same to the Auditor-General so that we can enhance accountability.

Currently - and I think the Mover did mention it - accounting entities of recipients of public funds are allowed up to three months from the end of a financial year to submit financial statements to the Auditor-General for auditing. What the Committee has been considering is a very radical proposal to reduce the timeline from three months to one. In the course of public participation, it became clear that one month may be a bit ambitious. Hence the need to fix the timeline between the one month proposed by the Bill and the three months already contained in various pieces of legislation touching on various bodies. The Committee has agreed to put the timeline at two months, which is reasonable time in the age of electronic processing of records. It is not like the old days when we would collate information manually and start looking for reconciliations and bank statements. The bank statement would not be ready until two weeks after end of the year. By the time you finish, a month or two would be over. These days, you get everything online. It is actually possible to prepare records within one month. But since we also know that there are several documents to be attached, it is only fair that we allocate two months. Three months are certainly too much. So, I am in total agreement with the position that has been taken by the Committee to amend its own Bill. I am quite confident in seconding the Bill.

This is a very straightforward Bill. It is just about reducing the period within which to submit financial statements to the Auditor-General. I believe it is a good Bill. It will speed up, by one month, the pace at which records move from agencies to the Auditor-General and, eventually, to this House. That way, the Public Accounts Committee and the Special Funds Account Committee will have an extra month to look at the reports to ensure accountability to the Kenyan people. Eventually, we might have to get to one month when processes become neater after testing how two months will work out. The fact that ministries, departments and agencies will have two months should not mean they should wait. Those who are ready should be able to present their accounts even within five days. I would urge the Departmental Committee on Finance and National Planning and PIC to look at incentives that can be inbuilt within financial regulations for entities that are quick in accounting for their allocations. Some could well be administrative. Their budgets could be approved much faster. I used to do that when I was at the Treasury. When those who are able to implement the requirements faster come for budgetary negotiations, you listen to them immediately. Those who are lazy and give you headache come at the tail end of the queue. These carrot and stick incentives could be used. Even when we allow a two-month period, people can account for the money they receive as early as possible but not later than the two months. The two months will become the outer limit rather than the norm.

We do not need to belabour the point. This is a very straightforward matter. The report captures everything. There has been substantive public participation, including by the agencies themselves. The Public Sector Accounting and Standards Board also participated. It is a body that seeks to enhance accountability in the public sector. The Institute of Certified Public Accountants of Kenya (ICPAK) which is mandated to look at accountability and accounting in public interest also did appear before the Committee. Everything has been agreed upon. I urge the House to pass the Bill as it is on the understanding that the one month proposed in the Bill will be enhanced to two months.

On that basis, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, thank you for giving me this opportunity. I would have taken no interest in this matter were it not that I sit in the Public Account Committee (PAC). It would have been of no interest at all to me if I had not at one time managed an organisation where the Board wanted the audited accounts within a certain period of time, where it was necessary to file returns with the KRA within a given period of time. Due to that rich exposure and experience, it is right for me to put in a word or two. However, let me admit, at the outset, that I am not an accountant but a consumer of accounting services and products.

At the end of any financial year, MDAs or organisations are required to prepare audited accounts. From my limited knowledge, at any given time, be it monthly or quarterly, any organisation must prepare management accounts which are necessary to compare budgets verses the reality, budgeted revenue versus received or accumulated realised revenue. So, it is necessary to compare budgeted expenditure versus actual expenditure. Ordinarily from my understanding - and I know there are senior accountants here of repute who can also correct me - those management accounts are accumulative so that after six months, you will have paid your taxes. There used to be advanced taxes to be paid. I do not know if it is still the case.

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Therefore, at the close of the financial year, you have accumulated management accounts which can easily become the financial accounts for that particular year. So, I have never understood up to date why an accountant or a financial officer would want a whooping six months to prepare annual accounts. However, being a professional that I am, I respect professionals of whichever shade and we have reluctantly taken it.

Hon. Temporary Deputy Speaker, in the Public Finance Management Act for MDAs, the period allocated is three months and four months for the comprehensive accounts. We put the Office of the Auditor General in a very precarious position. First of all, the reports come. When you read the reports of the Auditor-General, they are just a litany of lamentations as to why MDAs never provided documents. Why MDAs never prepared even the basic things called bank reconciliations. The argument given is that they did not have time. We keep on asking where they were for a whooping six months to have prepared and continuously reconciled those statements, both whichever in the IFMIS of any other place. It is time the law puts the accounting officers into some leash and forces them to comply. I am also informed that, unlike the later days where the accounts used to be prepared manually, there are systems that can allow you to prepare and post your records on a daily basis.

I am also informed and aware through my small practice that now we have mobile banking or internet banking where you can get your bank statements even on hourly or daily basis. I do not understand why there should be inordinate delay in preparing the audited accounts. As the Committee of the whole House, we must have very explicit sanctions for those accounting officers who do not comply with the law. Let them appear before the Public Account Committee and since there is very limited room in the law to punish them for failure to provide documents on time, the only thing you can do is to cite or reprimand them. I wish the Committee would also go further and impose very heavy sanctions, if they do not exist, to enable the public or whoever is responsible to punish heavily the lazy accounting officers. I believe the period of two months is probably for now adequate as the Hon. Leader of Majority Party has said. We must move it eventually once we automate all the departments and can link all the departments to their headquarters within one month because it can be done.

As I conclude it is, indeed, important that we clean up our books. Some of the reports we get at the Public Investments Committee are so discouraging, annoying and so embarrassing; that an accounting officer cannot keep basic books of accounts.

Delayed audits also mean there is delay for PAC to process those reports and lay them before the House so that they can become the basis for Division of Revenue Bill. It is important that all the MDAs, wherever they are, expedite this process so that we can comply with the Constitution that requires us to share the revenue between the levels of government based on the latest audited accounts. Right now, we are still using 2017/2018 audited accounts to share revenue between the various levels of government. So, it is important that MDAs play their role as much as the Office of the Auditor General also plays its role. We must continuously give the Office of the Auditor-General powers to play its role. We must continuously give the Office of the Auditor General “teeth”. We must give them the resources and capacity to process those reports and lay them before Parliament in good time so that we can comply with the Constitution.

With those few remarks, I support the Bill and the Committee’s Report that is seeking to amend the time from one to two months.

I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well Hon. (Dr.) Oundo. I can confirm that you are a member of the Public Accounts Committee and I am the Vice-

Chairperson. Let us have the Member for Nyando, Hon. Okello Odoyo. Please, you can have the Floor.

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon Temporary Deputy Speaker. I rise to support this Public Finance Management Bill for reasons that are known to many. There are very good reasons why the Committee has advanced these kind of amendments. It is usually very good for business to quickly know its position, whether it is making loses or profits. The declaration of the financial status by organisations helps them know how to reposition themselves in business. However, the accountants take forever - currently six months. That is a long period of time which becomes very difficult for a business to determine its actual position - financially speaking.

Therefore, I support this idea of doing it within two months. As the Hon. Leader of the Majority Party alluded, ultimately we will look at one month to have all the accounting books put in good shape. I know that large accounting firms tend to get more businesses. When they get more businesses, in retrospect, they experience inordinate delays to submit financial positions to their clients. If we are going to exert pressure by reduction of this period to two months, even the young professionals in the accounting field who are creating their own foot holds into the market with a view to enhancing their own niche in the accounting world will get jobs. Why wait for a big firm which will take forever to give you your financial position and yet, there are young qualified but little known professionals who can do the same job?

This will help young accountants to also have a stake within this competitive market, Hon. Temporary Deputy Speaker. I am a member of the Special Funds Account Committee. We look at various financial statuses of MDAs. The questions which emanate from the Auditor-General on financial probity are so common. We learn that many a time it is caused by the delay by organisations to submit certain critical documents to the Auditor-General. They take forever just because they know that they have a wiggly room where they wait for six months. Upon its lapse, they come up with excuses. This Bill will give everybody permissible pressure to present what is necessary within a set period of time. The Public Finance Management Act gives a specific period upon which documents should be submitted for audit purposes. However, at the end of the day, we continue to see these inordinate delays that have adverse effects on the financial preparedness of companies and organisations.

Therefore, I support this Bill. I know that there are a few amendments that will be cascaded to the Committee of the whole House to look into. However, this is a very good starting point. Companies will network and create linkages with their branches all the way to the national level, so that every document can be scrutinised in good time and the report given at the right time.

Hon. Temporary Deputy Speaker, I thank you for giving me the opportunity to contribute. I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, I have no other Member who is willing to contribute to this Bill. I, therefore, call upon the Mover to reply.

Hon. David Mboni (Kitui Rural, CCU): Thank you, Hon. Temporary Deputy Speaker. I would like to take this opportunity to thank all the Members who have contributed to the Bill which is straightforward.

With those few remarks, I beg to reply. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, after the conclusion of the debate on the Public Finance Management (Amendment) (No. 3) Bill (National Assembly Bill No. 39 of 2020, I order that the putting of the Question be deferred.

(Putting of the Question deferred)

Next Order!

MOTION

ADOPTION OF REPORT ON THE IRRIGATION (GENERAL) REGULATIONS

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Can we have the Chairperson of the Committee on Delegated Legislation?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, I have the pleasure to move the Motion, on behalf of the Chair of the Committee on Delegated Legislation.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Allow me to confirm that it has been communicated that you will move the Motion.

*(The Temporary Deputy Speaker
consulted with the Clerk-at-the-Table)*

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, can I proceed?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Yes. I have confirmed that you were given the opportunity, officially, to move the Motion. Thank you.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I feel greatly honoured to do it.

Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Irrigation (General) Regulations, 2021, laid on the Table of the House on Wednesday, 23rd February 2022 and, pursuant to the provisions of Section 34(2) of the Irrigation Act, 2019, approves the Irrigation (General) Regulations, 2021 published as Legal Notice No. 199 of 2021.

The Irrigation (General) Regulations, Legal Notice No. 199 of 2021, were made by the Cabinet Secretary for Water, Sanitation and Irrigation pursuant to Section 34(1) of the Irrigation Act, 2019 and were published in the Gazette vide Legal Notice No.199 of 2021. The regulations were submitted to the Clerk of the National Assembly on 19th October 2021. They were laid in the House on 10th November 2021. They were within the statutory timelines which are contemplated under Section 11(1) of the Statutory Instruments Act of 2013. Subsequently, they were referred to the Committee on Delegated Legislation for consideration. The primary objective of the Regulations is to facilitate better carrying out of the purposes and provisions of the Irrigation Act 2019 which was enacted in August 2019.

The purpose of the Regulations is to ensure:

- (i) Operationalisation of the Irrigation Act, 2019 in the spirit of the Irrigation Policy 2019;
- (ii) Sustainable development, management, financing, provision of support services and effective regulation of the entire irrigation sector in Kenya; and

- (iii) Compliance with the Constitution and laws of Kenya, international laws, treaties and agreements and other ratified instruments.

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Pursuant to Section 16 of the Statutory Instruments Act, 2013, the Committee had a pre-publication scrutiny meeting with the Ministry of Water, Sanitation and Irrigation on the Regulations on 17th December 2020. Subsequently, the meeting of the scrutiny of the published Regulations took into account the concerns made by the Committee during pre-publication engagement. They had met the requirements of the Constitution and other relevant laws in the development of the Regulations. The Committee held further consultation with the Ministry on the Regulations in a meeting held on 17th February 2022. The Ministry confirmed that the various issues which were raised at the pre-publication scrutiny had been addressed as follows:

(a) There is clear delineation of responsibility between the national Government and county governments as provided for under Regulation 6;

(b) The Regulations under 7(1), 19(3), 15, 16, 26, 88, 87 and 110 provide an enabling regulatory environment to the irrigation sector;

(c) While Irrigation Act, 2019 explicitly says that the licensing of irrigation schemes is the function of the CS, the Act allows him to delegate this function. Therefore, the licensing of small-scale irrigation schemes will be undertaken at the counties through delegation under the framework of Intergovernmental Relations Act, 2012; and,

(d) Administratively, the CS had developed a guiding framework for the establishment of the county irrigation development units which provide for the licensing of small-scale schemes at the county level.

Having examined the Irrigation (General) Regulations, 2021 Legal Notice No. 199 of 2021, the Committee made the following observations:

(i) The Regulations were published in the Gazette on 22nd September 2021 vide Legal Notice No. 19 of 2021 and submitted to the Clerk of the National Assembly on 19th October 2021. They were laid in the House on 10th November 2021 which is within the statutory timeline set out in Section 11(1) of the Statutory Instruments Act, 2013.

(ii) Articles 10 and 118 of the Constitution of Kenya, 2010, Section 5,5A and the Schedule to the Statutory Instruments Act, read together with Standing Order No.210 requires the regulation-making authority to conduct public participation and sufficient consultation with stakeholders and persons who are likely to be affected by the Regulations. The Ministry of Water, Sanitation and Irrigation demonstrated that it conducted sufficient public participation. It engaged various stakeholders on various dates between November 2019 and July 2021. The stakeholders included representatives of farmers and irrigation water users associations, Council of Governors, county governments, universities, development partners, Semi-Autonomous Government Agencies (SAGAs), private irrigation practitioners, region development agencies, ministries, national irrigation schemes, financial services providers, and the National Assembly and Senate Committees on Delegated Legislation.

The Ministry also conducted a national validation workshop which was held at the Kenya School of Monetary Studies on 23rd January 2020 and attended by key stakeholders who are likely to be affected by the Regulations.

We also noted in compliance with the Statutory Instruments Act on the requirements of a regulatory impact assessment, the Ministry conducted a regulatory impact assessment as admitted in the detailed regulatory statement. The purpose of the regulatory impact statement is to enable the Ministry, Parliament, stakeholders and the community to be informed of the environmental, social and economic implications of the implementation of the proposed Regulations.

Having examined the Irrigation (General) Regulations, 2021, Legal Notice No.199 of 2021 against the Constitution, the Interpretation and General Provisions Act, Cap.2, Statutory

Instruments No.23 of 2013 and the Irrigation Act No.14 of 2019, and pursuant to which they are made, the Committee recommends that the House approves the Irrigation (General) Regulations 2021, Legal Notice No.199 of 2021 in accordance to Section 34(1) of the Irrigation Act, 2019.

Hon. Temporary Deputy Speaker, I beg to move and request Eng. Nduati, the MP for Gatanga, who is also a musical MP, to second the Report.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well! The Hon. Engineer represents the people of Gatanga, he is not musical MP.

Hon. Joseph Nduati (Gatanga, JP): Thank you very much, Hon. Temporary Deputy Speaker. I represent the great people of Gatanga. Gatanga is known to be the bastion of musicians from Central Kenya. Since we are going for campaigns, we have great musicians who we can make use of. We have people like Peter Kigia, Timona Mburu, Kariuki wa Kiarutara and Njeri wa Gatanga. All those people are great musicians.

Hon. Temporary Deputy Speaker, we can give you a discount.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): We hear you. We still have some in other areas.

Hon. Jude Njomo (Kiambu, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): There is a point of order by Hon. Jude Njomo.

Hon. Jude Njomo (Kiambu, JP): Hon. Temporary Deputy Speaker, thank you. I am sorry to interrupt my good friend, Hon. Engineer Ngugi from Gatanga. But is it in order that he should use the platform of this august House to popularise his musicians? We know they have good music but I have challenged him every now and then that in five years' time, with the kind of structures that we have put in place, we shall be exporting music from Kiambu. It will no longer be imported from Gatanga. He should not use this platform to promote his musicians. It is not fair.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You have found the Temporary Deputy Speaker in good spirits because you are equally out of order!

Hon. Joseph Nduati (Gatanga, JP): Thank you very much, Hon. Temporary Deputy Speaker. I also

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Member for Gatanga, when the Temporary Deputy Speaker is speaking, you hold your horses.

Hon. Joseph Nduati (Gatanga, JP): Sorry, I did not hear you speaking Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Hon. Member for Gatanga was replying to Hon. Oundo who described him as the Member for Parliament for musicians. That is why I said that there are also musicians from Makueni. We have musicians from everywhere.

Hon. Joseph Nduati (Gatanga, JP): Even from Nyandarua?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Even from Kipipiri. Let us get to the point and to the business. You were seconding.

Hon. Joseph Nduati (Gatanga, JP): Hon. Temporary Deputy Speaker, I beg to second Motion No.13.

I wish to congratulate Hon. Oundo for giving us a good Report. If there is a Member who has been consistent and whom I think in the next term should be a chairman of a committee, it is Hon. Oundo. Many of us are not even in one committee, but Hon. Oundo is in three committees. He is a member of the Public Accounts Committee, Departmental Committee on Trade, Industry

and Co-operatives and Committee on Delegated Legislation. He has done very well. On many occasions, when we have been in this Parliament, Hon. Oundo has been known to represent the absent chairmen of those committees. It is high time that when we come back... I know the Member from Funyula is a committed Member in Funyula and I am very sure that he is going to come back. I urge the people of Funyula to vote back this committed Member.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I am sure he has not sent you. Hon. Member for Gatanga, you were seconding. What are you seconding? Are you seconding the Member for Funyula for his re-election or are you campaigning for him? Please, be on record and tell us what you are seconding.

Hon. Joseph Nduati (Gatanga, JP): Hon. Temporary Deputy Speaker, I second the Report.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The first request is from the Leader of the Majority Party and also the Member for Kipipiri, Hon. Amos Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Committee on the consideration of the Irrigation (General) Regulations, 2021, which were made pursuant to Legal Notice No.199 of 2021 as part of the operationalisation of the Irrigation Act of 2019. I am aware that we also have some amendments to the Irrigation Act that are pending before the Senate which will make it even better.

We are used to the Committee on Delegated Legislation coming here to annul most of the regulations that are taken to them for various reasons, including lack of public participation or the manner in which the regulations have been done. So, it is a welcome relief when the Committee gives us a Report that is positive to approve the Regulations that have been submitted to them. This is one of them and the ones we approved earlier on, on the tolling on our roads. I congratulate the Committee for proving that it is not just a Committee on annulment but also, when people do things the right way, they are happy to support them. We have done that on Finance Bills and others that are mandatory to come before the House.

The Mover has given us a very good background in terms of the rationale, the content of these Regulations and why they are necessary. I do not want to repeat. But I want to underscore that we are looking at these Regulations at a point when we are also crying for rains. Some parts of the country are suffering from the effects of drought and there is starvation and food scarcity and yet, we have waters flowing from our highlands and disappearing into the sea when we could be using most of it for irrigation so that we do not have to keep crying for rains when the water we have could also be used. We have countries in this world with little rain. In Dubai they do not get rains, but there is greenery all over. The United Arab Emirates actually exports food grown within a desert. I know the legal reforms to unlock the potential for food sustainability, which was part of the Big Four Agenda. We know it is working although there are people who do not believe it. That is because they have been away from their duty stations campaigning without official leave.

This is part of the work that is being done by the Government to actualise the Big Four Agenda on food sustainability and food safety by ensuring that we provide the necessary legislation to help our irrigation schemes. Effort is being put towards irrigation and expanding the productive capacity of our land through legislation. It is one thing saying we are going to grow food. We will not do it if we do not have the right regulations.

When you look at these Regulations, they cut across from the development of irrigation schemes to how you license them; how to ensure you have the right standards to the conditions

that are necessary within those schemes, and to the management of the irrigation schemes. We have seen success with some and failures with others like the Galana-Kulalu and all those. We have seen successes within the Mwea Irrigation Scheme. The standards and the quality control within them are so that we do not just put money on schemes without looking at their output. Can we get products that can get into international markets and our local market? How do we manage our water so that we do not do it in unsustainable ways? The whole issue of research and innovation that is necessary to sustain the inputs into the irrigation is there. How do we finance, the modalities for funding, cost sharing and the cost recovery measures within those schemes, social equity, affirmative action within irrigation development and the standards for irrigation farmers and all that?

Most important is also the monitoring of performance, audit and reporting within the schemes and the various instruments that will be used, the standards, the standard operating procedures, and the forms and formats of reports. All these are part of the issues that are contained within these general Regulations. All are to support irrigation agriculture as opposed to rainfed agriculture. It is important, especially when we know that one-third of our country is arable. We need these kinds of interventions to help the other two-thirds.

When you look at public participation, the Committee has outlined for us all the people who appeared. We are quite convinced that adequate public participation has been held on these Regulations. When they are put in place, we should have no one doubting how they were generated. This is a straightforward matter. We know that we are an agricultural country. We know that we have set upon ourselves that agriculture and food security is part of our objectives in the Big Four Agenda.

We have invested big monies in opening up irrigation schemes and putting up dams. The Karimenu Dam has just been completed in Kiambu. It will help in boosting irrigation schemes. Unfortunately, the Kimwarer and Aror dams would have boosted irrigation in that part of the world. We also know that some people decided to irrigate their pockets with the monies rather than irrigating the land. Hence, we suffer that corruption. Communities in that area will continue suffering because of some of those deeds. I am told that some of that money is trickling back into the economy as part of the campaigns. Unfortunately, it will not go to Kimwarer and Aror. The matter is still in court. We will not discuss much about it.

There was an intention of opening up all areas where there is aridity. We have seen the Thwake Dam. It is operating and it will open up that area. We have the Aberdares in my constituency. The water flows from the Aberdares into Nairobi. We do not want to fight with the people of Nairobi. We do not want to fight with the people of Nakuru who are tapping the water from the Malewa Dam. We have also decided to open up our traditional dams and create lots of water pans on the farms. This will help us increase the area under irrigation. It helps boost food production. I am sure it can work. Whether we are looking at this within the formal schemes or general irrigation, these Regulations will help in ensuring that irrigation is done properly.

I see my time is getting up. I would have wanted to talk and talk about this but, I want to support the Committee and ask the House to support this Report.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Bahati, Hon. Ngunjiri Kimani, you have the Floor.

Hon. Kimani Ngunjiri (Bahati, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Motion. The issue of water is so important.

When we talk about Regulations which have been passed by the Committee, we appreciate them. They have worked so hard to make sure we collect water. We as MPs know very well that

everywhere we are today and every Member everywhere is crying about water. Even in my Bahati Constituency, I agree that the issue of harvesting water is everywhere. When rain falls, all the water goes to waste because we do not collect it the way it is supposed to be done. The Committee has done a good job. We should support this. It is late. We should have done it before but, we always say that good time is the time of God. This thing has come now so that we can help all of us and support it; especially this time when the cry for water is all over. Donkeys are on the roads everywhere trying to get water. We need to expand our dams which are supposed to be harvesting water. I am supporting these Regulations. The Committee has done good work.

I will add something small. When we are discussing serious issues like this, the Leader of the Majority Party should not bring politics. When we start talking about Kimwarer Dam, we can also talk about the Kenya Medical Supplies Authority (KEMSA). People in this House were involved. Let us not put politics in it. When we have serious issues and we are supporting you, Leader of the Majority Party, do not add anything. Let us talk about the issue that is ahead of us. This Bill is so important to all Members. When we divert into politics, we might dilute it and fail to do the job that is supposed to be done. Leader of the Majority Party, my friend, I will be there when you say something good. So, let us continue supporting it and make sure that we harvest water in a good way. I am saying this because my Bahati Constituency has a big problem. I have seen wastage of water. Nobody harvests water after the rains. We cannot leave this to county governments. We want the national Government to get involved so that we do irrigation and have enough water everywhere.

I want to persuade the Leader of the Majority Party, because Bahati is under Nyandarua. I want to cultivate a good relationship with Nyandarua, so that we can have enough water from your forests into Bahati. I assure you that we will make sure that the Dundori Dam and the other about four dams I have there are expanded. That is why I am supporting. We are going to talk about this so that you can help me save the forests of Nyandarua so that Bahati can have water.

Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Thank you, Member for Bahati. I can see you know the procedures. You can talk out there. I am sure the Leader of the Majority Party will listen to you. I am sure that is when you step out of the Chamber. That was a good contribution.

Let me have the Member for Kiambu, Hon. Njomo Kang'ethe.

Hon. Jude Njomo (Kiambu, JP): Thank you, Hon. Temporary Deputy Speaker.

As we speak, we have a country that is blessed with very fertile soils and very arable land which can be very productive. We are also blessed with people who are very hardworking. They can till land and make it very productive and make our country self-sufficient on food. The only missing link is water. We have relied on heavens since time immemorial to supply us with water for our farming. We have refused to embrace technology and modernisation to improve our farming. The pretense that happened in terms of irrigation was after we were colonised. After colonisation, our colonisers took huge chunks of land, developed dams in them and started irrigation to enable them do farming of coffee and other crops. When we took over after Independence, we did not go ahead to do more irrigation to make us more self-reliant on food production. That is why I support this Bill. We have a responsibility. We have a mandate that is vested on us by the people who voted us to this House to look for ways and means to budget and to make provisions that can improve their livelihoods. There is no better way to improve the livelihoods of our people than to provide them with water for irrigation. We have seen that in the few areas where irrigation has been done. A good example is the Mwea Irrigation Scheme. If I am

not wrong, the canals that were done in Mwea were done during the *Mau Mau* war. It was the prisoners of war who were arrested that did the canals. Today, that area supplies us with a lot of rice. How many other such schemes can we do as a country to provide us with adequate food so that we stop relying on natural rain?

We have not exhausted the use of boreholes in our country. We are in a tropical area where we can sink boreholes and connect them to solar pumps to deliver water without incurring power bills. This is water that can be used for domestic consumption and irrigation. We have so many ways we can improve our water supply if we think outside the box. It is unfortunate that when you fly to Mombasa, you see all our rivers flowing into the Indian Ocean. Yes, it is good to replenish the ocean but we can replenish the ocean after we have replenished our land by using that water for irrigation to grow our maize, wheat and vegetables. We will get nutrition from the food from our land. I have visited Israel. It is a desert country and it has made use of the little water that it has to do irrigation. I was amazed to see that their sewage water does not go to the ocean before it is recycled and used for irrigation. We have more water than Israel but we do not exploit it fully.

It is sad that we have the second biggest lake in the world, Lake Victoria, and we are unable to exploit the resources of that lake because of the treaties that we signed during the colonial period. Time has come to re-negotiate those treaties so that as we preserve our forests to help us get enough rains for the lake to be replenished, we also make use of the lake by doing irrigation farming to feed our people. We have a good country and we have a lot of water. It is only irrigation that we need to do so that we convert this country to...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well spoken. Hon. Members, there being no other Member interested to speak on the Report, I will call upon the Mover to Reply. Hon. Oundo Ojiambo, Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. At the outset, let me take this opportunity to thank the Ministry for Water, Sanitation and Irrigation plus all the agencies that are involved for having gone out of their way to prepare progressive regulations that will govern the operations of this sector. Let me also thank the Members of the Committee on Delegated Legislation for diligently engaging the regulation-making authorities to ensure the regulations that were presented today meet the statutory requirements and the expectations of the public. I also take this opportunity to sincerely thank the Members who have contributed to these Regulations today and for their overwhelming support. Without belabouring the point, they have underscored the importance of irrigation in this country.

As we know, we have erratic rainfalls that are caused by climatic changes. Things are going to progressively get bad. We can no longer continue to rely on rainfed agriculture if we want to solve the issue of perpetual food insecurity and drought in this country. Irrigation at whatever level is the way to go. We hope these Regulations will support the attainment of the goal of food security through irrigation. We pray that, as we pump more funds in the irrigation sector, they are not going to be stolen, siphoned or embezzled so that we continue to have problems that we are having in this country.

We those few remarks, I beg to reply. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, on Order No. 13 on the Motion on the Report on Irrigation (General) Regulations, 2021, I order that the putting of the Question be deferred.

(Putting of the Question deferred)

Next Order!

BILL

Second Reading

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Chairperson, Departmental Committee on Finance and National Planning to move. Hon. Members, the Chairperson is not present to move the Second Reading of the Public Procurement and Asset Disposal (Amendment) (No. 2) Bill (National Assembly Bill No. 36 of 2021). I order that the Bill be deferred.

(Bill deferred)

Next Order!

MOTIONS

REPORT ON NATIONAL GOVERNMENT-CONSTITUENCIES DEVELOPMENT FUND STALLED PROJECTS

THAT, this House adopts the Report of the Select Committee on National Government Constituencies Development Fund on stalled and/or incomplete projects initiated through the NG-CDF but falling under the County Government functions, laid on the Table of the House on Tuesday, 17th August 2021.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Chairperson is not present to move the Second Reading of the Report of the Select Committee on National Government Constituencies Development Fund on stalled and/or incomplete projects initiated through the NG-CDF. I, therefore, order that the Second Reading be deferred.

(Motion deferred)

Next Order!

ADOPTION OF 11TH REPORT OF SPECIAL FUNDS ACCOUNTS COMMITTEE

THAT, this House adopts the Eleventh Report of the Special Funds Account Committee on Audited Financial Statements for the National Government Constituencies Development Fund for twenty six (26) constituencies in the counties of Mombasa, Kilifi, Kwale, Taita Taveta, Lamu and Tana River for the Financial Years 2013/2014, 2014/2015 and 2015/2016, laid on the Table of the House on Thursday, 2nd December 2021.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Chairperson, Special Funds Account Committee. I, therefore, order that the Motion on Order No.16 be deferred.

(Motion deferred)

CONSIDERATION OF SPECIAL AUDIT REPORT ON
UTILISATION OF COVID-19 FUNDS BY KEMSA

THAT, this House adopts the Report of the Public Investments Committee on its consideration of the Special Audit Report on Utilisation of COVID-19 Funds by the Kenya Medical Supplies Authority, laid on the Table of the House on Wednesday, 22nd September 2021.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Can we have the Chairperson, Public Investments Committee to move the Report on Order No.17? Again, I am not sure of the preparedness of the Member given the Motions that we have deferred. The Chairperson is not present to move the Report and I order that it be deferred.

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other business on the Order Paper for today, Thursday, 24th March 2022 at 2.30 p.m., and the time being 6.02 p.m., this House stands adjourned until Tuesday, 29th March 2022 at 2.30 p.m.

The House rose at 6.02 p.m.