

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Thursday, 2<sup>nd</sup> June 2022**

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]***PRAYERS****QUORUM****Hon. Speaker:** Serjeant-at-Arms, ring the Quorum Bell.*(The Quorum Bell was rung)*

Order, Members! Take your seats. I am told that we now have the requisite quorum. Member for Mvita, take your seat.

Hon. Members, as you have noticed everyday, we appreciate that new Members are attending. I am sure the ones who are here today will not be in on Tuesday. This is because of the various things that are happening, with a few exceptions of the Deputy Speaker, Majority Whip, Hon. Wandayi, Hon. Mariru, Hon. Wanyonyi, Hon. Wamunyinyi and Hon. Abdullswamad. I have noticed that if we go through the normal Motions, because the next item is Order No.5 on Papers Laid, there are some Members who have no capacity to sit here beyond five minutes.

*(Laughter)*

So, we have been unable to transact certain businesses because they disappear too fast. I am rearranging the Order Paper, so that we move to Order Nos. 9, 10, 11, 12, 13 and 14, in that order, before we go back to Order No.5 on Papers to be Laid. I am sure by the time we are through with this, we are likely to have dissipated a bit.

Hon. Members, for the time being, I can see a Member who was coming in, but she is walking away. She has just finished and walked away.

**Hon. Members:** Name her!

**Hon. Speaker:** There is no need of naming anybody. I want to request those who are present that we dispose of these businesses. It is just a matter of putting the Question and a decision being taken. I know there are some of you who have already sat for too long, please, *vumilia* for another 10 minutes. We will be through.

Next Order!

## MOTION

## CONSIDERATION OF BUDGET ESTIMATES FOR FINANCIAL YEAR 2022/2023

THAT, this House do agree with the Committee of Supply in its consideration of the Budget Estimates for the FY 2022/2023 and pursuant to the provisions of Article 221 of the Constitution, Section 39 of the Public Finance Management Act, 2012, and Standing Order 240A, approves the issuance of a sum of Kshs2,103,838,811,446 from the Consolidated Fund to meet the expenditure for the National Government during the year ending 30<sup>th</sup> June 2023, in respect of the Votes as approved in the Schedule below.

SCHEDULE				
VOTE CODE	VOTE/PROGRAMME CODES & TITLE	FINAL FY 2022-23 BUDGET ESTIMATES		
		GROSS CURRENT ESTIMATES	GROSS CAPITAL ESTIMATES	GROSS TOTAL ESTIMATES
1011	<b>Executive Office of the President</b>	<b>17,083,926,379</b>	<b>5,983,070,000</b>	<b>23,066,996,379</b>
	0702000 Cabinet Affairs	1,594,629,154	252,250,000	1,846,879,154
	0703000 Government Advisory Services	649,300,000	75,000,000	724,300,000
	0704000 State House Affairs	4,080,817,716	286,850,000	4,367,667,716
	0734000 Deputy President Services	1,690,451,519	20,400,000	1,710,851,519
	0745000 Nairobi Metropolitan Services	9,068,727,990	5,348,570,000	14,417,297,990
1021	<b>State Department for Interior and Citizen Services</b>	<b>136,753,574,522</b>	<b>6,778,886,159</b>	<b>143,532,460,681</b>
	0601000 Policing Services	101,321,401,128	1,795,000,000	103,116,401,128
	0603000 Government Printing Services	735,289,874	300,000,000	1,035,289,874
	0605000 Migration & Citizen Services Management	2,779,484,059	950,000,000	3,729,484,059
	0625000 Road Safety	2,304,400,000	520,856,159	2,825,256,159
	06256000 Population Management Services	4,003,392,724	1,232,000,000	5,235,392,724
	629000 General Administration and Support Services	24,551,166,737	1,881,030,000	26,432,196,737
	063000 Policy Coordination Services	1,058,440,000	100,000,000	1,158,440,000
1023	<b>State Department for Correctional Services</b>	<b>31,053,251,550</b>	<b>1,165,400,000</b>	<b>32,218,651,550</b>
	0623000 General Administration, Planning and Support Services	358,002,731	15,000,000	373,002,731
	0627000 Prison Services	28,850,597,571	880,390,000	29,730,987,571
	0628000 Probation & After Care Services	1,844,651,248	270,010,000	2,114,661,248
1032	<b>State Department for Devolution</b>	<b>1,444,910,000</b>	<b>297,000,000</b>	<b>1,741,910,000</b>
	0712000 Devolution Services	1,444,910,000	297,000,000	1,741,910,000
1035	<b>State Department for Development of the ASAL</b>	<b>1,059,230,000</b>	<b>9,360,193,700</b>	<b>10,419,423,700</b>

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		GROSS CURRENT ESTIMATES	GROSS CAPITAL ESTIMATES	GROSS TOTAL ESTIMATES
	0733000 Accelerated ASAL Development	1,059,230,000	9,360,193,700	10,419,423,700
<b>1041</b>	<b>Ministry of Defence</b>	<b>128,215,300,000</b>	<b>3,468,000,000</b>	<b>131,683,300,000</b>
	0801000 Defence	124,969,600,000	3,468,000,000	128,437,600,000
	0802000 Civil Aid	400,000,000	-	400,000,000
	0803000 General Administration, Planning and Support Services	2,625,700,000	-	2,625,700,000
	0805000000 National Space Management	220,000,000	-	220,000,000
<b>1052</b>	<b>Ministry of Foreign Affairs</b>	<b>17,236,179,618</b>	<b>1,796,120,000</b>	<b>19,032,299,618</b>
	0714000 General Administration Planning and Support Services	2,413,875,792	252,120,000	2,665,995,792
	0715000 Foreign Relation and Diplomacy	14,630,710,647	1,394,000,000	16,024,710,647
	0741000 Economic and Commercial Diplomacy	51,823,239	-	51,823,239
	0742000 Foreign Policy Research, Capacity Development and Technical Cooperation	139,769,940	150,000,000	289,769,940
<b>1064</b>	<b>State Department for Vocational and Technical Training</b>	<b>19,100,500,000</b>	<b>5,829,822,807</b>	<b>24,930,322,807</b>
	0505000 Technical Vocational Education and Training	18,860,141,625	5,829,822,807	24,689,964,432
	0507000 Youth Training and Development	44,855,043	-	44,855,043
	0508000 General Administration, Planning and Support Services	195,503,332	-	195,503,332
<b>1065</b>	<b>State Department for University Education</b>	<b>102,857,278,998</b>	<b>6,980,716,330</b>	<b>109,837,995,328</b>
	0504000 University Education	101,521,038,573	6,925,716,330	108,446,754,903
	0506000 Research, Science, Technology and Innovation	991,125,412	55,000,000	1,046,125,412
	0508000 General Administration, Planning and Support Services	345,115,013	-	345,115,013
<b>1066</b>	<b>State Department for Early Learning &amp; Basic Education</b>	<b>95,302,000,000</b>	<b>15,379,239,910</b>	<b>110,681,239,910</b>
	0501000 Primary Education	18,392,683,260	1,889,700,000	20,282,383,260
	0502000 Secondary Education	68,516,221,630	12,893,539,910	81,409,761,540
	0503000 Quality Assurance and Standards	3,638,785,872	446,000,000	4,084,785,872
	0508000 General Administration, Planning and Support Services	4,754,309,238	150,000,000	4,904,309,238
<b>1068</b>	<b>State Department for Post Training and Skills Development</b>	<b>283,600,000</b>	<b>73,000,000</b>	<b>356,600,000</b>
	0508000 General Administration, Planning and Support Services	134,257,056	-	134,257,056
	0512000 Work Place Readiness Services	100,843,916	73,000,000	173,843,916

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		GROSS CURRENT ESTIMATES	GROSS CAPITAL ESTIMATES	GROSS TOTAL ESTIMATES
	0513000 Post Training Information Management	48,499,028	-	48,499,028
<b>1069</b>	<b>State Department for Implementation of Curriculum Reforms</b>	<b>339,299,400</b>	<b>-</b>	<b>339,299,400</b>
	0514000 Coordination of the Curriculum Reforms Implementation	339,299,400	-	339,299,400
<b>1071</b>	<b>The National Treasury</b>	<b>53,845,085,913</b>	<b>120,551,831,325</b>	<b>174,396,917,238</b>
	0203000 Rail Transport	-	31,928,000,000	31,928,000,000
	0204000 Marine Transport	-	3,120,638,636	3,120,638,636
	0717000 General Administration Planning and Support Services	44,707,920,949	14,515,790,000	59,223,710,949
	0718000 Public Financial Management	7,561,808,918	61,394,602,689	68,956,411,607
	0719000 Economic and Financial Policy Formulation and Management	1,198,435,806	9,562,800,000	10,761,235,806
	0720000 Market Competition	302,100,000	30,000,000	332,100,000
	0740000 Government Clearing services	74,820,240	-	74,820,240
<b>1072</b>	<b>State Department for Planning</b>	<b>3,955,480,000</b>	<b>45,130,640,000</b>	<b>49,086,120,000</b>
	0706000 Economic Policy and National Planning	2,106,970,000	44,806,400,000	46,913,370,000
	0707000 National Statistical Information Services	1,317,620,000	228,750,000	1,546,370,000
	0708000 Public Investment Management Monitoring and Evaluation Services	180,300,000	95,490,000	275,790,000
	0709000 General Administration Planning and Support Services	350,590,000	-	350,590,000
<b>1081</b>	<b>Ministry of Health</b>	<b>68,503,000,000</b>	<b>54,016,254,652</b>	<b>122,519,254,652</b>
	0401000 Preventive, Promotive & Reproductive Health	2,184,752,720	24,370,825,152	26,555,577,872
	0402000 National Referral & Specialized Services	40,000,117,395	11,851,500,000	51,851,617,395
	0403000 Health Research and Development	10,850,000,000	1,549,000,000	12,399,000,000
	0404000 General Administration, Planning & Support Services	7,747,571,056	1,082,000,000	8,829,571,056
	0405000 Health Policy, Standards and Regulations	7,720,558,829	15,162,929,500	22,883,488,329
<b>1091</b>	<b>State Department of Infrastructure</b>	<b>69,478,000,000</b>	<b>151,815,567,854</b>	<b>221,293,567,854</b>
	0202000 Road Transport	69,478,000,000	151,815,567,854	221,293,567,854
<b>1092</b>	<b>State Department of Transport</b>	<b>9,622,000,000</b>	<b>1,350,000,000</b>	<b>10,972,000,000</b>
	0201000 General Administration, Planning and Support Services	278,000,000	430,000,000	708,000,000
	0204000 Marine Transport	798,897,488	247,000,000	1,045,897,488

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		GROSS CURRENT ESTIMATES	GROSS CAPITAL ESTIMATES	GROSS TOTAL ESTIMATES
	0205000 Air Transport	8,533,102,512	673,000,000	9,206,102,512
	0216000 Road Safety	12,000,000	-	12,000,000
<b>1093</b>	<b>State Department for Shipping and Maritime</b>	<b>2,182,000,000</b>	<b>1,178,000,000</b>	<b>3,360,000,000</b>
	0220000 Shipping and Maritime Affairs	2,182,000,000	1,178,000,000	3,360,000,000
<b>1094</b>	<b>State Department for Housing and Urban Development</b>	<b>1,341,000,000</b>	<b>19,020,000,000</b>	<b>20,361,000,000</b>
	0102000 Housing Development and Human Settlement	793,000,000	13,585,000,000	14,378,000,000
	0105000 Urban and Metropolitan Development	285,000,000	5,435,000,000	5,720,000,000
	0106000 General Administration Planning and Support Services	263,000,000	-	263,000,000
<b>1095</b>	<b>State for Public Works</b>	<b>3,383,000,000</b>	<b>1,310,000,000</b>	<b>4,693,000,000</b>
	0103000 Government Buildings	551,000,000	630,000,000	1,181,000,000
	0104000 Coastline Infrastructure and Pedestrian Access	173,000,000	321,000,000	494,000,000
	0106000 General Administration Planning and Support Services	380,000,000	14,000,000	394,000,000
	0218000 Regulation and Development of the Construction Industry	2,279,000,000	345,000,000	2,624,000,000
<b>1108</b>	<b>Ministry of Environment and Forestry</b>	<b>10,616,000,000</b>	<b>4,639,800,000</b>	<b>15,255,800,000</b>
	1002000 Environment Management and Protection	1,958,000,000	1,153,800,000	3,111,800,000
	1010000 General Administration, Planning and Support Services	475,200,000	-	475,200,000
	1012000 Meteorological Services	1,103,800,000	413,000,000	1,516,800,000
	1018000 Forests and Water Towers Conservation	7,079,000,000	3,073,000,000	10,152,000,000
<b>1109</b>	<b>Ministry of Water, Sanitation and Irrigation</b>	<b>6,747,500,000</b>	<b>77,189,124,881</b>	<b>83,936,624,881</b>
	1001000 General Administration, Planning and Support Services	813,624,593	866,000,000	1,679,624,593
	1004000 Water Resources Management	1,779,621,575	13,580,000,000	15,359,621,575
	1017000 Water and Sewerage Infrastructure Development	3,395,788,040	42,274,124,881	45,669,912,921
	1014000 Irrigation and Land Reclamation	726,496,248	8,399,000,000	9,125,496,248
	1015000 Water Storage and Flood Control	-	10,012,000,000	10,012,000,000
	1022000 Water Harvesting and Storage for Irrigation	31,969,544	2,058,000,000	2,089,969,544
<b>1112</b>	<b>Ministry of Lands and Physical Planning</b>	<b>3,306,450,000</b>	<b>2,621,800,000</b>	<b>5,928,250,000</b>
	0101000 Land Policy and Planning	3,306,450,000	2,621,800,000	5,928,250,000

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1122	<b>State Department for Information Communication Technology &amp; Innovation</b>	<b>2,268,400,000</b>	<b>16,985,700,000</b>	<b>19,254,100,000</b>
	0207000 General Administration Planning and Support Services	356,400,000	-	356,400,000
	0210000 ICT Infrastructure Development	574,000,000	15,758,700,000	16,332,700,000
	0217000 E-Government Services	1,338,000,000	1,227,000,000	2,565,000,000
1123	<b>State Department for Broadcasting &amp; Telecommunications</b>	<b>6,690,600,000</b>	<b>817,000,000</b>	<b>7,507,600,000</b>
	0207000 General Administration Planning and Support Services	228,366,801	-	228,366,801
	0208000 Information and Communication Services	5,267,322,738	398,000,000	5,665,322,738
	0209000 Mass Media Skills Development	228,000,000	110,000,000	338,000,000
	0221000 Film Development Services Programme	966,910,461	309,000,000	1,275,910,461
1132	<b>State Department for Sports</b>	<b>1,542,950,000</b>	<b>15,883,000,000</b>	<b>17,425,950,000</b>
	0901000 Sports	1,542,950,000	15,883,000,000	17,425,950,000
1134	<b>State Department for Culture and Heritage</b>	<b>3,094,414,367</b>	<b>77,500,000</b>	<b>3,171,914,367</b>
	0902000 Culture / Heritage	1,953,040,327	47,500,000	2,000,540,327
	0903000 The Arts	157,088,747	-	157,088,747
	0904000 Library Services	793,719,005	30,000,000	823,719,005
	0905000 General Administration, Planning and Support Services	190,566,288	-	190,566,288
1152	<b>Ministry of Energy</b>	<b>14,696,000,000</b>	<b>80,971,855,000</b>	<b>95,667,855,000</b>
	0211000 General Administration Planning and Support Services	411,000,000	208,000,000	619,000,000
	0212000 Power Generation	2,914,000,000	17,584,000,000	20,498,000,000
	0213000 Power Transmission and Distribution	11,238,390,083	60,984,855,000	72,223,245,083
	0214000 Alternative Energy Technologies	132,609,917	2,195,000,000	2,327,609,917
1162	<b>State Department for Livestock</b>	<b>3,590,200,000</b>	<b>3,617,100,000</b>	<b>7,207,300,000</b>
	0112000 Livestock Resources Management and Development	3,590,200,000	3,617,100,000	7,207,300,000
1166	<b>State Department for Fisheries, Aquaculture &amp; the Blue Economy</b>	<b>2,391,630,000</b>	<b>8,105,770,000</b>	<b>10,497,400,000</b>
	0111000 Fisheries Development and Management	2,099,646,588	5,917,206,000	8,016,852,588
	0117000 General Administration, Planning and Support Services	269,269,834	-	269,269,834
	0118000 Development and Coordination of the Blue Economy	22,713,578	2,188,564,000	2,211,277,578

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<b>1169</b>	<b>State Department for Crop Development &amp; Agricultural Research</b>	<b>14,463,700,000</b>	<b>27,042,327,321</b>	<b>41,506,027,321</b>
	0107000 General Administration Planning and Support Services	5,227,448,432	3,609,417,513	8,836,865,945
	0108000 Crop Development and Management	3,483,779,576	21,241,195,500	24,724,975,076
	0109000 Agribusiness and Information Management	138,940,750	1,216,714,308	1,355,655,058
	0120000 Agricultural Research & Development	5,613,531,242	975,000,000	6,588,531,242
<b>1173</b>	<b>State Department for Cooperatives</b>	<b>1,839,700,000</b>	<b>422,500,000</b>	<b>2,262,200,000</b>
	0304000 Cooperative Development and Management	1,839,700,000	422,500,000	2,262,200,000
<b>1174</b>	<b>State Department for Trade and Enterprise Development</b>	<b>2,514,590,000</b>	<b>1,486,600,000</b>	<b>4,001,190,000</b>
	0309000 Domestic Trade & Enterprise Development	562,400,830	1,436,600,000	1,999,000,830
	0310000 Fair Trade Practices & Compliance of Standards	548,466,913	50,000,000	598,466,913
	0311000 International Trade Development & Promotion	1,029,582,232	-	1,029,582,232
	0312000 General Administration, Planning & Support Services	374,140,025	-	374,140,025
<b>1175</b>	<b>State Department for Industrialization</b>	<b>3,624,990,000</b>	<b>3,501,550,000</b>	<b>7,126,540,000</b>
	0301000 General Administration Planning and Support Services	462,133,983	-	462,133,983
	0302000 Industrial Development and Investments	1,690,312,943	995,170,000	2,685,482,943
	0303000 Standards and Business Incubation	1,472,543,074	2,506,380,000	3,978,923,074
<b>1184</b>	<b>Ministry of Labour</b>	<b>2,911,130,000</b>	<b>572,500,000</b>	<b>3,483,630,000</b>
	0910000 General Administration Planning and Support Services	504,038,150	-	504,038,150
	0906000 Promotion of the Best Labour Practice	730,563,800	111,760,000	842,323,800
	0907000 Manpower Development, Employment and Productivity Management	1,676,528,050	460,740,000	2,137,268,050
<b>1185</b>	<b>State Department for Social Protection, Senior Citizen Affairs &amp; Special Programs</b>	<b>31,805,940,000</b>	<b>2,870,300,000</b>	<b>34,676,240,000</b>
	0908000 Social Development and Children Services	4,252,460,844	318,800,000	4,571,260,844
	0909000 National Social Safety Net	27,309,559,935	2,551,500,000	29,861,059,935
	0914000 General Administration, Planning and Support Services	243,919,221	-	243,919,221
<b>1194</b>	<b>Ministry of Petroleum and Mining</b>	<b>5,989,000,000</b>	<b>3,302,000,000</b>	<b>9,291,000,000</b>
	0215000 Exploration and Distribution of Oil and Gas	87,000,000	2,910,000,000	2,997,000,000

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	1007000 General Administration Planning and Support Services	5,573,425,590	-	5,573,425,590
	1009000 Mineral Resources Management	266,574,410	162,300,000	428,874,410
	1021000 Geological Surveys and Geo-information Management	62,000,000	229,700,000	291,700,000
<b>1202</b>	<b>State Department for Tourism</b>	<b>8,676,465,760</b>	<b>352,210,000</b>	<b>9,028,675,760</b>
	0313000 Tourism Promotion & Marketing	962,449,971	40,200,000	1,002,649,971
	0314000 Tourism Product Development & Diversification	7,328,594,159	288,000,000	7,616,594,159
	0315000 General Administration, Planning and Support Services	385,421,630	24,010,000	409,431,630
<b>1203</b>	<b>State Department for Wildlife</b>	<b>7,164,000,000</b>	<b>821,810,000</b>	<b>7,985,810,000</b>
	1019000 Wildlife Conservation and Management	7,164,000,000	821,810,000	7,985,810,000
<b>1212</b>	<b>State Department for Gender</b>	<b>1,200,350,000</b>	<b>2,776,000,000</b>	<b>3,976,350,000</b>
	0911000 Community Development	-	2,130,000,000	2,130,000,000
	0912000 Gender Empowerment	874,280,310	646,000,000	1,520,280,310
	0913000 General Administration, Planning and Support Services	326,069,690	-	326,069,690
<b>1213</b>	<b>State Department for Public Service</b>	<b>23,141,770,000</b>	<b>703,040,000</b>	<b>23,844,810,000</b>
	0710000 Public Service Transformation	9,659,657,034	602,200,000	10,261,857,034
	0709000 General Administration Planning and Support Services	568,960,293	30,840,000	599,800,293
	0747000 National Youth Service	12,913,152,673	70,000,000	12,983,152,673
<b>1214</b>	<b>State Department for Youth Affairs</b>	<b>1,524,330,000</b>	<b>1,932,790,000</b>	<b>3,457,120,000</b>
	0711000 Youth Empowerment Services	498,877,777	476,690,510	975,568,287
	0748000 Youth Development Services	638,604,943	1,456,099,490	2,094,704,433
	0749000 General Administration Planning and Support Services	386,847,280	-	386,847,280
<b>1221</b>	<b>State Department for East African Community</b>	<b>767,060,000</b>	<b>-</b>	<b>767,060,000</b>
	0305000 East African Affairs and Regional Integration	767,060,000	-	767,060,000
<b>1222</b>	<b>State Department for Regional &amp; Northern Corridor Development</b>	<b>3,493,710,000</b>	<b>1,614,824,000</b>	<b>5,108,534,000</b>
	1013000 Integrated Regional Development	3,493,710,000	1,614,824,000	5,108,534,000
<b>1252</b>	<b>State Law Office and Department of Justice</b>	<b>5,179,370,000</b>	<b>223,500,000</b>	<b>5,402,870,000</b>
	0606000 Legal Services	2,444,307,023	-	2,444,307,023

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SCHEDULE				
VOTE CODE	VOTE/PROGRAMME CODES & TITLE	FINAL FY 2022-23 BUDGET ESTIMATES		
		GROSS CURRENT ESTIMATES	GROSS CAPITAL ESTIMATES	GROSS TOTAL ESTIMATES
	0607000 Governance, Legal Training and Constitutional Affairs	1,932,509,186	133,500,000	2,066,009,186
	0609000 General Administration, Planning and Support Services	802,553,791	90,000,000	892,553,791
<b>1271</b>	<b>Ethics and Anti-Corruption Commission</b>	<b>3,420,530,000</b>	<b>158,000,000</b>	<b>3,578,530,000</b>
	0611000 Ethics and Anti-Corruption	3,420,530,000	158,000,000	3,578,530,000
<b>1281</b>	<b>National Intelligence Service</b>	<b>46,127,700,000</b>	-	<b>46,127,700,000</b>
	0804000 National Security Intelligence	46,127,700,000	-	46,127,700,000
<b>1291</b>	<b>Office of the Director of Public Prosecutions</b>	<b>3,281,950,000</b>	<b>45,000,000</b>	<b>3,326,950,000</b>
	0612000 Public Prosecution Services	3,281,950,000	45,000,000	3,326,950,000
<b>1311</b>	<b>Office of the Registrar of Political Parties</b>	<b>2,126,850,000</b>	-	<b>2,126,850,000</b>
	0614000 Registration, Regulation and Funding of Political Parties	2,126,850,000	-	2,126,850,000
<b>1321</b>	<b>Witness Protection Agency</b>	<b>649,070,000</b>	-	<b>649,070,000</b>
	0615000 Witness Protection	649,070,000	-	649,070,000
<b>2011</b>	<b>Kenya National Commission on Human Rights</b>	<b>464,360,000</b>	-	<b>464,360,000</b>
	0616000 Protection and Promotion of Human Rights	464,360,000	-	464,360,000
<b>2021</b>	<b>National Land Commission</b>	<b>1,468,000,000</b>	<b>90,300,000</b>	<b>1,558,300,000</b>
	0116000 Land Administration and Management	1,468,000,000	90,300,000	1,558,300,000
<b>2031</b>	<b>Independent Electoral and Boundaries Commission</b>	<b>21,686,840,000</b>	-	<b>21,686,840,000</b>
	0617000 Management of Electoral Processes	21,365,340,000	-	21,365,340,000
	0618000 Delimitation of Electoral Boundaries	321,500,000	-	321,500,000
<b>2061</b>	<b>The Commission on Revenue Allocation</b>	<b>491,960,000</b>	-	<b>491,960,000</b>
	0737000 Inter-Governmental Transfers and Financial Matters	491,960,000	-	491,960,000
<b>2071</b>	<b>Public Service Commission</b>	<b>2,555,840,000</b>	<b>26,300,000</b>	<b>2,582,140,000</b>
	0725000 General Administration, Planning and Support Services	916,847,613	26,300,000	943,147,613
	0726000 Human Resource Management and Development	1,445,674,594	-	1,445,674,594
	0727000 Governance and National Values	147,717,768	-	147,717,768
	0744000 Performance and Productivity Management	45,600,025	-	45,600,025
<b>2081</b>	<b>Salaries and Remuneration Commission</b>	<b>612,500,000</b>	-	<b>612,500,000</b>

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SCHEDULE				
VOTE CODE	VOTE/PROGRAMME CODES & TITLE	FINAL FY 2022-23 BUDGET ESTIMATES		
		GROSS CURRENT ESTIMATES	GROSS CAPITAL ESTIMATES	GROSS TOTAL ESTIMATES
	0728000 Salaries and Remuneration Management	612,500,000	-	612,500,000
<b>2091</b>	<b>Teachers Service Commission</b>	<b>297,718,000,000</b>	<b>656,000,000</b>	<b>298,374,000,000</b>
	0509000 Teacher Resource Management	289,373,311,780	600,000,000	289,973,311,780
	0510000 Governance and Standards	1,160,989,106	-	1,160,989,106
	0511000 General Administration, Planning and Support Services	7,183,699,114	56,000,000	7,239,699,114
<b>2101</b>	<b>National Police Service Commission</b>	<b>1,029,250,000</b>	<b>-</b>	<b>1,029,250,000</b>
	0620000 National Police Service Human Resource Management	1,029,250,000	-	1,029,250,000
<b>2111</b>	<b>Auditor General</b>	<b>6,508,450,000</b>	<b>389,710,000</b>	<b>6,898,160,000</b>
	0729000 Audit Services	6,508,450,000	389,710,000	6,898,160,000
<b>2121</b>	<b>Office of the Controller of Budget</b>	<b>702,370,000</b>	<b>-</b>	<b>702,370,000</b>
	0730000 Control and Management of Public finances	702,370,000	-	702,370,000
<b>2131</b>	<b>Commission on Administrative Justice</b>	<b>724,320,000</b>	<b>-</b>	<b>724,320,000</b>
	0731000 Promotion of Administrative Justice	724,320,000	-	724,320,000
<b>2141</b>	<b>National Gender and Equality Commission</b>	<b>473,170,000</b>	<b>10,131,000</b>	<b>483,301,000</b>
	0621000 Promotion of Gender Equality and Freedom from Discrimination	473,170,000	10,131,000	483,301,000
<b>2151</b>	<b>Independent Policing Oversight Authority</b>	<b>1,024,600,000</b>	<b>-</b>	<b>1,024,600,000</b>
	0622000 Policing Oversight Services	1,024,600,000	-	1,024,600,000
	<b>Sub-Total: Budget Estimates for the Executive</b>	<b>1,323,344,626,507</b>	<b>711,389,784,939</b>	<b>2,034,734,411,446</b>
<b>1261</b>	<b>The Judiciary</b>	<b>16,397,400,000</b>	<b>1,900,000,000</b>	<b>18,297,400,000</b>
	0610000 Dispensation of Justice	16,397,400,000	1,900,000,000	18,297,400,000
<b>2051</b>	<b>Judicial Service Commission</b>	<b>587,000,000</b>	<b>-</b>	<b>587,000,000</b>
	0619000 General Administration, Planning and Support Services	587,000,000	-	587,000,000
	<b>Sub-Total: Budget Estimates for the Judiciary</b>	<b>16,984,400,000</b>	<b>1,900,000,000</b>	<b>18,884,400,000</b>
<b>2041</b>	<b>Parliamentary Service Commission</b>	<b>8,785,000,000</b>	<b>-</b>	<b>8,785,000,000</b>
	0722000 Senate Affairs	8,785,000,000	-	8,785,000,000
<b>2042</b>	<b>National Assembly</b>	<b>33,270,000,000</b>	<b>-</b>	<b>33,270,000,000</b>
	0721000 National Legislation, Representation and Oversight	33,270,000,000	-	33,270,000,000
<b>2043</b>	<b>Parliamentary Joint Services</b>	<b>6,100,000,000</b>	<b>2,065,000,000</b>	<b>8,165,000,000</b>

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SCHEDULE				
VOTE CODE	VOTE/PROGRAMME CODES & TITLE	FINAL FY 2022-23 BUDGET ESTIMATES		
		GROSS CURRENT ESTIMATES	GROSS CAPITAL ESTIMATES	GROSS TOTAL ESTIMATES
	0723000 General Administration, Planning and Support Services	5,927,811,050	2,065,000,000	7,992,811,050
	0746000 Legislative Training Research & Knowledge Management	172,188,950	-	172,188,950
-	<b>Sub-Total: Budget Estimates for Parliament</b>	<b>48,155,000,000</b>	<b>2,065,000,000</b>	<b>50,220,000,000</b>
	<b>TOTAL BUDGET ESTIMATES</b>	<b>1,388,484,026,507</b>	<b>715,354,784,939</b>	<b>2,103,838,811,446</b>

*(Hon. Kanini Kega on 26.5.2022)*

*(Debate concluded on 26.5.2022)*

*(Hon. Charles Kilonzo walked out of the Chamber)*

**Hon. Speaker:** Who is that Member walking out? Is it Hon. Kilonzo?

**Hon. Members:** Yes.

**Hon. Speaker:** As you can see, Hon. Kilonzo is thirsty. Those making their way in, please, come in.

Hon. Members, debate on this Motion was concluded and what remained was for the Question to be put, which we did not put on Tuesday because of lack of quorum. As I said, quorum is important when making a decision.

*(Question put and agreed to)*

Next Order!

## REPORT AND THIRD READING

### THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL

**Hon. Speaker:** The Chair of the Budget and Appropriations Committee was not in when we were dealing with his business.

Hon Members, again, this is just to put the Question, which I hereby do.

*(Question put and agreed to)*

**Hon. Speaker:** Mover for Third Reading.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you, Hon. Speaker.

I beg to move that the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No.4 of 2021) be now read the Third Time.

I ask Hon. Ferdinand Wanyonyi to second.

**Hon. Speaker:** Hon. Wanyonyi, Member for Kwanza.

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**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): I second.

*(Question proposed)*

**Hon. Speaker:** Hon. Members, there being no comments, and having confirmed that the House still has quorum, I now go ahead to put the Question.

*(Question put and agreed to)*

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

Next Order!

*Second Reading*

THE SUPREME COURT (AMENDMENT) BILL

*(Hon. Emmanuel Wangwe on 31.5.2022)*

*(Debate concluded on 31.5.2022)*

**Hon. Speaker:** Hon. Members, debate on this Bill was concluded on Tuesday this week and what remains is for the Question to be put.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to  
a committee of the whole House tomorrow)*

Next!

*Second Reading*

THE PROMPT PAYMENT BILL

*(Hon. Isaac Ndirangu on 31.5.2022)*

*(Debate concluded on 31.5.2022)*

*(Hon. Owen Baya slowly walked into the Chamber)*

**Hon. Speaker:** The Member who is walking in, please, take a seat. Is that the Member for Kilifi North?

**Hon. Members:** Yes!

**Hon. Speaker:** The Member does not want to come in, he looks like someone who is afraid of the ocean.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

**Hon. Speaker:** Next!

## MOTIONS

### ADOPTION OF FIFTH REPORT ON AMENDMENTS TO STANDING ORDERS

THAT, this House adopts the Fifth Report of the Procedure and House Rules Committee on Amendments to the Standing Orders, laid on the Table of the House on Thursday, 26<sup>th</sup> May 2022 and pursuant to the provisions of Standing Orders 264 and 265, approves the proposed amendments to the Standing Orders as contained in the First Schedule to the Report; and further RESOLVES THAT –

(i) pursuant to the provisions of Standing Order 265, the amendments made to the Standing Orders shall commence upon the expiry of the term of the Twelfth Parliament; and,

(ii) despite paragraph (i), the proposed new Standing Order 259F(5) (Members' Biodata and Roll) shall take effect immediately.

*(Hon. Moses Cheboi on 31.5.2022)*

*(Debate concluded on 31.5.2022)*

*(Loud consultations)*

**Hon. Speaker:** The two female Members, are you through? Surely, Hon. Members. Please, be patient. We are going to be through and then we will release you, but we will still continue to make laws for the country. I hope you are part of the team that is making law.

Debate having been concluded I, therefore, go ahead to put the Question.

*(Question put and agreed to)*

Hon. Members, I am sure many of you may not know this procedure. Normally, this is the only time when moving to Committee of the whole House, the Speaker will leave the Chair and go to the Chairman's Chair to deal with amendments to the Standing Orders.

Next Order!

### ADOPTION OF PUBLIC ACCOUNTS COMMITTEE REPORT FOR 2018/2019

THAT, this House adopts the Report of the Public Accounts Committee on the Examination of the Report of the Auditor-General on the Financial Statements for the National Government for the Financial Year 2018/2019, laid on the Table of the House on Tuesday, 17<sup>th</sup> May 2022.

*(Hon. Opiyo Wandayi on 31.5.2022)*

*(Debate concluded on 31.5.2022)*

**Hon. Speaker:** Hon. Members, this is a Report by the Public Accounts Committee. Hon. Wandayi threatened to table yet another report before the House goes on recess *sine die*. We still continue to congratulate him and his Committee for the work well done.

*(Applause)*

The debate on this Report was concluded on Tuesday this week, and what remained is for the Question to be put, which I hereby do.

*(Question put and agreed to)*

This paves way for Hon. Wandayi to table the Report for Financial Year 2019/2020, which is really, commendable.

*(Applause)*

Hon. Members, remember that we reorganised the Order Paper, so that we could dispose of these Questions because of quorum issues. We will go back to Order No.5.

Majority Whip.

### PAPERS LAID

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

I beg to lay the following Papers on the Table of the House:

Bilateral Air Service Agreements between Kenya and the Czech Republic, Cyprus, Chile, Belize, Suriname, Tanzania, Austria and Barbados; and the Explanatory Memorandum from the Ministry of Transport.

Protocol relating to Articles 50A and 56 of the Convention on International Civil Aviation, 1994 (Chicago Convention), and Explanatory Memorandum from the Ministry of Transport. Items (i) and (ii) to be referred to the Departmental Committee on Transport, Public Works and Housing.

Report of the Auditor-General for the National Government Ministries, Departments and Agencies for the Year 2020/2021.

Report of the Auditor-General and Financial Statements in respect of Tinderet Constituency for the Year ended 30<sup>th</sup> June 2019, and the certificate, therein.

**Hon. Speaker:** The Chairperson, Departmental Committee on Agriculture and Livestock, Hon. Tiren.

**Hon. Silas Tiren** (Moiben, JP): Thank you, Hon. Speaker, for this opportunity.

I beg to lay the following Papers on the Table of the House:

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Report of the Departmental Committee on Agriculture and Livestock on its consideration of the following:

- (i) The Mung Beans Bill (Senate Bill No.9 of 2020).
- (ii) Public Petition regarding *Miraa* farming and marketing.
- (iii) Public Petition regarding restoration of revival of Kenya Cashew Nuts Factory.

**Hon. Speaker:** Before the Chair of the Public Investments Committee tables his report, let me recognise the presence, in the Public Gallery, of pupils from Mwiki Primary School in Ruiru Constituency, Kiambu County. They are welcome to observe the proceedings of the National Assembly.

*(Applause)*

Chair, PIC?

### PAPERS LAID

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Public Investments Committee on its consideration of Special Audit Report on the Lake Turkana Wind Power Project.

**Hon. Speaker:** The Chairperson, Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Kenya Roads Board (Amendment) Bill (National Assembly Bill No. 13 of 2022).

**Hon. Speaker:** Very well. Next is the Chairperson, Committee on Delegated Legislation, Hon. Kamket.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Committee on Delegated Legislation on its consideration of:

- (i) The Draft Elections (Registration of Voters) (Amendment) Regulations, 2022;
- (ii) The Draft Elections (General) (Amendment) Regulations, 2022;
- (iii) The Draft Elections (Voter Education) (Amendment) Regulations, 2022;
- (iv) The Draft Elections (Party Nominations and Party Lists) (Amendment) Regulations, 2022; and,
- (v) The Draft Elections (Technology) (Amendment) Regulations, 2022.

**Hon. Speaker:** Very well. Next Order.

### NOTICES OF MOTIONS

ADOPTION OF SPECIAL AUDIT REPORT ON  
LAKE TURKANA WIND POWER PROJECT

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Special Audit Report on the Lake Turkana Wind Power Project, laid on the Table of the House on Thursday, 2<sup>nd</sup> June 2022.

**Hon. Speaker:** Hon. Kamket.

#### ADOPTION OF REPORT OF DRAFT ELECTIONS REGULATIONS

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of:

- (i) The Draft Elections (Registration of Voters) (Amendment) Regulations, 2022;
- (ii) The Draft Elections (General) (Amendment) Regulations, 2022;
- (iii) The Draft Elections (Voters Education) (Amendment) Regulations, 2022;
- (iv) The Draft Elections (Party Nominations and Party Lists) (Amendment) Regulations, 2022; and,
- (v) The Draft Elections (Technology) (Amendment) Regulations, 2022, laid on the Table of the House on Thursday 2<sup>nd</sup> June, 2022, and pursuant to the provisions of Section 109(3) of the Elections Act, 2011, does not approve the Draft Elections Regulations.

**Hon. Speaker:** Very well. Next Order. Sorry! The Majority Whip.

#### APPROVAL OF THE PUBLIC FINANCE MANAGEMENT (NATIONAL GOVERNMENT) REGULATIONS

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Section 50(2) of the Public Finance Management Act, 2012, this House approves the Public Finance Management (National Government) Regulations, 2022, published as Legal Notice No.89 of 26<sup>th</sup> May 2022, thus approving the amendment made to the Public Finance Management (National Government) Regulations, 2015, Principal Regulations in Regulation 26(1) by deleting paragraph (c) and substituting therefor the following paragraph –

(c) pursuant to the provisions of Section 50(2) of the Act, the public debt shall not exceed Kshs10 trillion.

**Hon. Speaker:** Very well. Next Order.

#### ORDINARY QUESTION

**Hon. Speaker:** Member for Bomet Central.



*Question No.127/2022*DELAYED PAYMENT TO 2021  
KCPE AND KCSE EXAMINERS

**Hon. Ronald Tonui** (Bomet Central, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Education, Science and Technology the following Questions:

- (i) Could the Cabinet Secretary explain the inordinate delays by the Kenya National Examinations Council in making payments to invigilators, supervisors, examiners and other personnel who rendered services during the administration and marking of the 2021 Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate of Secondary Education (KCSE) examinations?
- (ii) When will the teachers who rendered their services be paid?

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Education and Research.

The next segment is on Statements. The only Statement I expect today is from the Majority Whip.

**STATEMENT**BUSINESS FOR THE WEEK COMMENCING 7<sup>TH</sup> TO 9<sup>TH</sup> JUNE 2022

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, 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), regarding the business prioritised for consideration.

As Members are aware, the House has allocated a significant portion of its time to considering the Budget Estimates for the 2022/2023 Financial Year and other related legislations. I want to thank the leadership of the House and all Members for the cooperation they have had so far. We still have a few important stages to go through in this regard, including passage of the Appropriation Bill, 2022, and the Finance Bill, 2022, which will be considered today in the Committee of the whole House. I, therefore, urge Members to be patient and support the House leadership in finalising this critical part of the Budget process, especially where the House may have to sit late to conclude the business.

On Tuesday next week, the following business has been scheduled for consideration:

- (i) First Reading of the Appropriation Bill, 2022, subject to its publication.
- (ii) Second Reading of the following Bills:
  - (a) Appropriation Bill, 2022.
  - (b) The Mung Beans Bill (Senate Bill No.9 of 2020).
  - (c) The County Boundaries Bill (Senate Bill No.20 of 2021).
- (iii) Committee of the whole House on the following Bills:
  - (a) The Appropriation Bill, 2022.
  - (b) The Supreme Court (Amendment) Bill, 2022.
  - (c) The Universities (Amendment) Bill, 2021.

Also scheduled for consideration are Motions on the following matters:

- (i) Report of the Budget and Appropriations Committee on consideration of the Second Supplementary Estimates for the Financial Year 2021/2022;

(ii) Report of the Public Investments Committee on Examination of the Financial Statements for State Corporations; and,

(iii) Report of the Committee on Members' Services and Facilities on the Study Visit to the Legislative Assembly of Alberta, Canada.

I am reliably informed that at the moment, there are no Questions scheduled for responses by Cabinet Secretaries. The House Business Committee shall reconvene on Tuesday, 7<sup>th</sup> June 2022, to schedule business for the rest of the week.

I wish to lay this Statement on the Table of the House.

*(Hon. Emmanuel Wangwe laid the Statement on the Table)*

**Hon. Speaker:** Let us have the Member for Igembe South.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Asante sana, Mheshimiwa Spika. Nakushukuru sana kwa sababu wiki mbili zilizopita, nilisimama katika Bunge hili kuulizia kuhusu Ombi nililoleta hapa mwaka wa 2020. Nilipoleta Ombi hilo, halikushughulikiwa. Lilikuwa Ombi la mkaazi wa Igembe Kusini ambaye alikuwa amefungiwa soko la miraa. Nilileta Ombi hilo kwa Kamati ya Kilimo.

Siku ya leo, nashukuru Mwenyekiti wa Kamati hiyo kwa sababu ameyaleta majibu katika Bunge hili. Ombi hili limekawia kwa muda mrefu sana. Wakaazi wa Igembe Kusini wametaabika sana kwa sababu wakati soko la miraa lilipofungwa, hawakuwa na soko lingine mahali popote, na wamekuwa na shida nyingi. Nashukuru sana kwa sababu Ombi hili limejibiwa leo. Wananchi hao watashughulikiwa ili biashara zao zifunguliwe tena. Pesa ambazo Serikali ilipeana mwaka wa 2016/2017 zitumike kuwasaidia wakulima.

Kulikuwa pia na Ombi la uchunguzi. Wizara ya Kilimo ilipaswa iangazie vyema jinsi walivyotumia hela kuwasaidia wakaazi wa Meru. Naomba kuwa ripoti hiyo itimizwe kikamilifu.

Mheshimiwa Spika, tukitoka katika Bunge hili, namuomba Mungu sana kuwa mahali utakapokuwa, uzidi kutusaidia kama vile unavyotusaidia hapa.

**Hon. Speaker:** Hon. Ichung'wah, do you also have an intervention?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Asante, Mheshimiwa Spika. Naomba pia nichangie ripoti hiyo kwa lugha ya Kiswahili, kwa sababu Mheshimiwa John Paul amechangia kwa lugha hiyo. Ni dhahiri kuwa shida ya wakulima wa miraa si shida haswa, kama tunavyojua sisi sote. Kiini cha matatizo ya wakulima wa miraa ni soko la miraa. Tumetumia soko la miraa kama chombo cha siasa kwa miaka mingi. Ni jambo la kushangaza kuwa nyumbani kwa Waziri anayesimamia kilimo kwa wakati huu, Mheshimiwa Munya, ni Meru ambako kuna wakulima wengi wa miraa.

Jina lake "Munya" kwa lugha ya kikwetu lina maana ya "kung'oa". Sijui kama aliambiwa na mtu yeyote kuwa kazi yake ni kung'oa maisha ya wakulima. Yeye ndiye tatizo kuu la wakulima wote. Fedha za Serikali ambazo zimewekezwa katika mambo ya miraa zinatumiwa vibaya katika Wizara hiyo. Juzi, wakulima waliahidiwa kuwa watapewa mbolea ambayo bei yake imekatwa na Serikali. Alikimbia Trans Nzoia huko Kitale, na kuwafanya wakulima wapange laini siku nzima bila kupata mbolea. Waliopata walipewa gunia kumi ama sita, ilhali mkulima anahitaji gunia 100 ama 200 za mbolea. Waziri wa Kilimo anapaswa awache kufanya siasa na maisha ya wakulima, na awe na moyo wa kujali wakulima wa Meru, Igembe na Tigania, wanaotegemea kilimo cha miraa. Hawa ni watu ambao jamii na familia zao zinategemea kilimo cha miraa.

Nimemuona Waziri huyo akitembea kote nchini akifanya kampeni za kisiasa, akiwaahidi Wakenya mambo atakayofanya na Serikali nyingine akiwa Waziri wa Kilimo, kinyume na Katiba.

Ni mambo gani ambayo Waziri wa Kilimo aliye Serikalini anawaahidi wananchi atawafanyia katika Serikali nyingine? Anapaswa atuambie. Kama yeye siye tatizo, basi labda ni wakuu wake. Atuambie kuwa yule aliyemteua ako na tatizo ambalo linamzuia kutekeleza kazi yake kama Waziri. Atuambie pia ni nani anayemfanyia kampeni wakati huu, kinyume na Katiba, kwa sababu hakuna Waziri...

**Hon. Speaker:** There is a point of order from Hon. Wangwe.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Sijui ni nini kinawawasha wengine, kwa sababu naonega kuhusu mambo ya Katiba. Katiba yetu inasema kuwa hakuna Waziri anayefaa kuwa akifanya siasa.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Shukrani sana, Mheshimiwa Spika, kwa kunipa nafasi hii ili niulize swali, haswa kwako, kama Spika. Je, mwenzangu, Mbunge wa Kikuyu, anafuata kanuni anapomtaja na kumzungumzia Mheshimiwa Waziri bila Hoja sawasawa, kinyume na Kanuni za Bunge hili? Yale maombi ambayo Mhe. Ichung'wah alikuwa nayo yalikuwa mazuri bila kumzungumzia Mheshimiwa Munya. Yuko sahihi kweli kuendelea kwa namna hiyo?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Mheshimiwa Spika, namheshimu sana Kiranja Mkuu wa Chama cha Jubilee. Sijui kama kweli anaielewa Katiba anayoizungumzia. Jukumu langu kuu kama Mbunge wa Kikuyu ni kuhakikisha kuwa utekelezaji wa kazi za Serikali na mawaziri unafanyika kwa mujibu wa Katiba. Waziri Munya siye Mungu ambaye hatuwezi kumjadili. Sijajadili mambo yanayomhusu yeye binafsi; najadili utekelezaji wa kazi yake kama Waziri wa Serikali. Hafanyi kazi ya Serikali kama Peter Munya. Anapaswa afanye kazi ya Serikali kwa mujibu wa Katiba na sheria zilizowekwa. Ndio maana nimetaja mambo ambayo amefanya ambayo ni kinyume na Katiba na sheria.

**Hon. Speaker:** Let us have Mheshimiwa Obo.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Asante, Mheshimiwa Spika. Nataka Mheshimiwa arekebishe. Si haki kumtaja Waziri Munya, kutoa uzushi, kusema mambo ambayo hayana maana na kufanya siasa. Yeye ndiye anayefanya siasa, wala sio Waziri. Waziri hayuko hapa akifanya siasa. Sisi watu wa Lamu tunajua kuwa miraa inapita boda ya Lamu ikienda Somalia, lakini tikiti maji zetu haziendi huko. Anakosa shukrani. Waziri amefanya kazi kubwa zaidi. Kama ni soko la miraa, sisi ndio tunalishuhudia. Miraa inapita Lamu, boda imefungwa lakini bado miraa inaenda Somalia ilhali tikiti maji zetu haziendi huko. Kisha bado wanasema Waziri hajafanya kazi nzuri. Huo ni uzushi na Mheshimiwa ndiye anafanya siasa.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Amedhihirisha kuwa magendo yanafanyika, kwa sababu hizo ndizo shida ambazo tunajadili. Soko limefungwa na anadai kuwa merikebu zavuka kupeleka miraa, ilhali msimamo wa Serikali ni kuwa bado wanajadiliana mambo ya kufungua boda.

**Hon. Speaker:** Let us have the Member for Mvita.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Mheshimiwa Spika, huwa natamani vile ndugu yangu, Kimani Ichung'wah, analeta Hoja zake. Leo, nataka kunukuu maneno aliyoyazungumza. Naomba anisikize kwa sababu hayo ndiyo mambo tunayoyazungumza. Ametoa kauli akasema, "Ni kitu gani Waziri anasema na yeye tayari ni Waziri?" Wachana na yule Waziri anayeajiriwa na kufutwa kwa kalamu. Ni kitu gani ambacho Naibu wa Rais ambaye hawezi kufutwa kikatiba anaweza kufanya kesho ilhali leo kimemshinda kufuanya? Tusiwe wenye ngozi mbili kana kwamba mbele ya watu hawa tuna ngozi ya kondoo na mbele ya wengine tuna ngozi za chui na fisi. Mbele za watu mnasema tutarekibisha hivi na hivi, ilhali mlikuwa katika Serikali miaka hii yote. Sasa miezi miwili kabla ya kura, watu ghafla wanakuwa malaika.

Mimi nakubaliana na hiyo hoja yako kwamba kama ulikuwa waziri na hukufanya kitu siku hizo zote, kwa nini useme utafanya kesho? Tumekuwa na Naibu wa Rais kwa miaka tisa, na hakuweza kutekeleza. Je, atatekeleza aje yale ambayo hakuyatekeleza muda wote huo? Acheni siasa za *abracadabra* bwana!

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Mhe. Spika, na kubaliana kabisa na ndugu yangu anayewania kiti cha Gavana wa Mombasa. Namtakia kila la heri. Lakini nafikiri hakunisikiza vizuri. Hii ni kwa sababu hoja yangu ilikuwa juu ya waziri ambaye ameteuliwa. Yule aliyemteua amempatia mamlaka yote ya kutekeleza yale anayowaambia watu kwenye mikutano ya kisiasa. Asituambie kwamba aliyemteua amemkataza kuwasaidia wakulima. Asituambie kesho akiteuliwa na mwigine ndio ataweza kutekeleza. Mhe. Abdullswamad anaelewa Naibu wa Rais. Ukiangalia utaratibu uliokuwa jana katika sherehe ya Madaraka, utajua alifutwa kazi kinyume cha sheria. Jana Rais alimfanyia madharau mengi sana.

Kwa hivyo, ningependa kumjulisha na kumfahamisha Mhe. Abdullswamad kwamba kikatiba, Naibu wa Rais hawezi futwa kazi na Rais. Lakini kwa mtindo na tabia zake, ashamfuta kazi. Ni vile tu Katiba inamlinda. Rais amemkataza kufanya kazi ya Wakenya, kumhujumu na kumfanyia madharau. Alizitoa kazi zote za ofisi ya Naibu wa Rais na kupeleka kwenye ofisi yake. Kwa hivyo, mtu ambaye amefeili na kushindwa kufanya kazi ya utekelezaji ili kuwasaidia wakulima wa miraa ni Munya ama aliyemteua. Ndiyo nimesema asituambie Rais Uhuru Kenyatta ndiye amemkataza. Kwani mwenye anamfanyia kampeini ndio atamwezesha?

Lakini hoja kubwa ni kwamba kikatiba, waziri wa serikali hafai kuwa akiendesha siasa. Hawa mawaziri walioteuliwa na Rais na kupitishwa na Bunge hili wanafaa kufuata utaratibu wa sheria na Katiba. Yangu haikuwa kumjadili Bwana Munya, kwa sababu yeye ni mtu mdogo sana. Tulimjadili wakati tulikuwa tunampiga msasa ili ateuliwe kama waziri.

Mwenyekiti wa Kamati ya Kilimo na Mifugo, Bwana Tiren, ako hapa. Atakuambia kuwa taabu na shida za wakulima ni ukosefu wa mbolea huko Bonde la Ufa na Kaskazini. Huyu waziri amefeili ni vile hatuwezi kumfuta hizi wiki mbili ambazo zimebaki, nawaomba Wakenya tumfute huyo waziri, serikali na wale wanaowafanyia kampeni.

**Hon. Speaker:** Just to remind you, the issue arose from a comment of appreciation by the Member for Igembe South upon the Report presented by the Chair of the Departmental Committee on Agriculture and Livestock on a Statement he sought about *miraa* markets.

I can see a few of you walking in and beginning to get excited thinking what you found...

**Hon. Kimani Ichung'wah** (Kikuyu, JP): They think this is a Motion.

**Hon. Speaker:** There is no Motion. All of you are putting interventions. I hope it is not on this.

**Hon. Members:** It is on this.

**Hon. Speaker:** If it is on this one, next Order. The House must do business! Majority Whip.

## PROCEDURAL MOTION

### EXTENSION OF SITTING TIME

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House orders that, should the time appointed for adjournment of the House today be reached before

conclusion of business appearing under Order No.17 on today's Order Paper, the Sitting of the House shall stand extended until the conclusion of the said business.

Hon. Speaker, as the House is aware, we have a lot of work to do and commitment against the timeframe, since the House is about to go on *sine die* recess. Therefore, now that we have three days remaining, it is good that the House concludes Order No.17, so that we can beat time.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I am seconding you.

**Hon. Emmanuel Wangwe** (Navakholo, JP): I wish to move and request Hon. Ichung'wah to second.

**Hon. Speaker:** No, on record.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I second.

**Hon. Speaker:** Hon. Members, let me propose the Question. You cannot ask before we have proposed.

*(Question proposed)*

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Speaker, I seek your indulgence, with a lot of humility. Considering that the Public Investments Committee has three reports, I seek that the Motion the Minority Whip has moved not to be extended up to Order No.17, but to the Order on PIC reports. This will enable us to also finalise the others.

Hon. Speaker, this is a humble request.

**Hon. Speaker:** But you see, the way to go about that is to propose an amendment. There being no other Member to second, I call upon the Mover.

*(Question put and agreed to)*

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

## IN THE COMMITTEE

*[The Deputy Chairman (Hon. Justin Muturi) took the Chair]*

## THE NATIONAL ASSEMBLY STANDING ORDERS

**Hon. Deputy Chairman:** Hon. Rachael Nyamai, we are now in the Committee of the whole House to consider amendments to the Standing Orders.

I have reliable information that you intend to be back in the 13<sup>th</sup> Parliament, and it might be useful that you prepare what you are going to use.

*(Several Hon. Members left the Chamber)*

I am aware that several of those other Members walking away have no idea of what it is we are doing. They are just passengers. Hon. Members, we are in Committee of the whole House.

*(Standing Order No.1 agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Deputy Chairman. Just like we deal with Bills at the Committee of the whole House, now that there are no amendments to these Standing Orders, why can you not read about five of them, then we put the Question, move on to another five and then we put the Question? That way, we will move faster. There is nobody who has an amendment.

**Hon. Deputy Chairman:** The reason is because there are several proposed amendments. Standing Order No.1 has no proposed amendment by the Committee.

**Hon. Aden Duale** (Garissa Township, JP): Okay, Hon. Deputy Chairman. I forgot that the Committee has amendments.

*(Standing Order No.2 agreed to)*

*Standing Order No.3*

**Hon. Deputy Chairman:** This one has an amendment.

**Hon. Moses Cheboi** (Kuresoi South, JP): Yes, Hon. Chairman. I am sorry to call you Chairman because today, you are ordinarily a Speaker.

I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 3 and substituting therefor the following new Standing Order—

**Proceedings on assembly of a new House**

3. (1) On the first sitting of a new House pursuant to the President's notification under Article 126(2) of the Constitution, the Clerk shall—
- (a) read the notification of the President as published in the *Gazette*;
  - (b) lay a list of the names of the persons elected as Members on the Table of the House; and
  - (c) administer the Oath or Affirmation of Office provided for in the Third Schedule to the Constitution to all Members-elect present in the House in the order set out in paragraph (3).
- (2) Pursuant to the provisions of Article 74 of the Constitution, no person shall assume or perform any functions of the office of a Member before taking and subscribing to the Oath or Affirmation of Office provided for under Paragraph (1).
- (3) The Clerk shall administer the Oath or Affirmation of Office to Members-elect in alphabetical order using the following order of precedence—
- (a) A Member-elect who has served in a House of Parliament as—
    - (i) Speaker;
    - (ii) Leader of the Majority Party;
    - (iii) Leader of the Minority Party; or
    - (iv) Deputy Speaker.
  - (b) Members-elect with the longest cumulative period of service in the National Assembly;

- (c) Members-elect with the longest cumulative period of service in the National Assembly, the Senate and the East African Legislative Assembly;
  - (d) Members-elect with the longest cumulative period of service in the Senate;
  - (e) Members-elect with the longest cumulative period of service in the East African Legislative Assembly;
  - (f) all other Members-elect.
- (4) When the Clerk is administering the Oath or Affirmation of Office to Members-elect and before the Clerk has administered the Oath or Affirmation of Office to the Speaker, any question arising in the House shall be determined by the Clerk who shall, during that period, preside over the House exercise the powers of the Speaker.
- (5) At any other time, the Oath or Affirmation of Office shall be administered by the Speaker immediately after prayers.
- (6) When a Member-elect first attends to take his or her seat following a by-election, the Member-elect shall, before taking his or her seat, be escorted to the Table by two Members and be presented by them to the Speaker who shall then administer to the Member-elect the Oath or Affirmation of Office.
- (7) Notwithstanding Standing Order No.30 (*Hours of Meeting*), on the day when the election of the Speaker is to be conducted after a general election, the sitting of the House shall commence at 9.00 am until conclusion of the business listed in the Order Paper.

Basically, this is on the proceedings of a new august House in the order of precedence in terms of taking oath. The justification is to re-cast and re-arrange the provisions of the logical flow to put into consideration the order of precedence to be observed in the National Assembly, as provided under Article 108(4) of the Constitution.

**Hon. Deputy Chairman:** I hope Members have followed up.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.3 as amended agreed to)*

*Standing Order No.4*

**Hon. Moses Cheboi** (Kuresoi South, JP): Hon. Chairman, I beg to move:

THAT, the Standing Order be amended by deleting Standing Order 4 and substituting therefor the following new Standing Order—

**Election of Speaker after a General Election**

4. A Speaker shall be elected when the House first meets after a general election and before the House proceeds with the dispatch of any other business, except the administration of the Oath or Affirmation of Office to Members present.

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This is basically on elections of the Speaker after a general election. The justification of this is to re-cast the title of the Standing Order for logical flow of the provisions, and to delete Paragraphs 2 and 3 for their re-introduction in their appropriate Standing Orders that deal with vacancy of the Speaker. This is because in the Standing Orders, there are others that deal specifically with that.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.4 as amended agreed to)*

*Standing Order No.5*

**Hon. Deputy Chairman:** There is an amendment to Standing Order No.5.

**Hon. Moses Cheboi** (Kuresoi South, JP): Hon. Deputy Chairman, I beg to move:  
THAT, Standing Order No.5 be amended—

- (a) by deleting paragraph (1) and substituting therefor the following new paragraph—
  - (1) Upon the President notifying the place and date for the first sitting of a new Assembly pursuant to Article 126(2) of the Constitution, the Clerk shall by notice in the Gazette—
    - (a) notify that fact and invite interested persons to submit their nomination papers for election to the office of Speaker; and,
    - (b) appoint a nomination day and designate the place and period for the receipt of nomination papers.
- (b) in paragraph (3), by deleting the word “them” appearing immediately after the words “declaration by” and substituting therefor the words “the Members”;
- (c) by inserting the following new paragraph immediately after paragraph (3) —
  - (3A) The nomination paper of a candidate under paragraph (3) shall be in the form prescribed in the Ninth Schedule.
- (d) in paragraph (6) by deleting the words “meeting” appearing immediately after the words “before the” and substituting therefor the word “sitting”.

This is to require the Clerk to appoint a nomination day, and designate a place and period within which candidates may present their nomination papers for the election of a Speaker, so that it is different from what happened before where they bring it to the Clerk’s Office. We want to make it more transparent and open.

Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*



*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.5 as amended agreed to)*

*Standing Order No.6*

**Hon. Moses Cheboi** (Kuresoi South, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order No.6 be amended in Paragraph (4) by deleting the words “and destroy” appearing immediately after the word “cancel.”

This is basically on issues of election. The Standing Order No.10 requires the Clerk to maintain custody of ballot papers after elections, as ballot may also be required in case of a dispute. So, he keeps them so that if there is any person who wants to go to court like what happened this term, there would be ballot papers to prove his case.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, this is a very good amendment. The House must set the record straight and show an example. There are people in this country who always go to court. In the event one of them applies for the position of Speaker and they want to go to court, the custody of those ballot papers; both spoilt and the votes that have been cast, must be kept in a very safe and strong room designated by the Clerk.

I support.

**Hon. Deputy Chairman:** Very well.

*(Question, that the words to be left out be left out,  
put and agreed)*

*(Standing Order No.6 as amended agreed to)*

*(Standing Order No.7 agreed to)*

*Standing Order No.8*

**Hon. Deputy Chairman:** Mover.

**Hon. Moses Cheboi** (Kuresoi South, JP): Hon. Chairman, I beg to move:

THAT, Standing Order No.8 be amended by deleting the word “issued” appearing immediately after the words “ballot papers” and substituting therefor the word “printed”.

Still on elections and for consistency, the word “printed” is used in reference to ballot papers, still on the elections of the Speaker.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.8 as amended agreed to)*

*(Standing Order No. 9 agreed to)*

*Standing Order No.10*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order No.10 be amended by inserting the words “and any spoilt ballot papers” immediately after the word “Speaker”.

This is still on elections of the Speaker. Like Hon. Duale has just indicated a few minutes ago, this is to require the Clerk to retain custody of any spoiled papers after election of Speaker.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No.10 as amended agreed to)*

*(Standing Order No.11 agreed to)*

*Standing Order No.12A*

**Hon. Moses Cheboi** (Kuresoi North, JP): Thank you, Hon. Deputy Chairman.

Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 12A be amended by—

(a) deleting paragraph (1) and substituting therefor the following new paragraph—

“(1) The office of the Speaker or Deputy Speaker shall become vacant if the office holder resigns from office in a letter addressed to the House as contemplated under 106(2)(d) of the Constitution.”

(b) inserting the following new paragraph immediately after paragraph (1)—

“(1A) A letter under paragraph (1) shall be submitted to the Clerk.”

This is basically on issues of a vacancy in the Office of the Speaker. It is to align the Standing Orders with provisions of Article 106 of the Constitution.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No.12A as amended agreed to)*

*(Standing Order Nos.12B, 13, 14 and 15 agreed to)*

*Standing Order No.16*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order No.16 be amended by deleting paragraph (1) and substituting therefor the following new paragraph—

“(1) There shall be a panel to be known as the Chairperson’s Panel which shall comprise six Members to be known, respectively, as the First, Second, Third, Fourth, Fifth and Sixth Chairperson of Committees, and who shall be entitled to exercise all the powers vested in the Chairperson of Committees.”

These are issues that deal with panel where there is an increase of panel members from four to six. Therefore, this amendment is aimed at increasing the number of Members to the panel. The justification is to make them a bit more efficient and to ensure that they are not overwhelmed as it has happened in the current term.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.16 as amended agreed to)*

*(Standing Order Nos.17 and 18 agreed to)*

*Standing Order No. 19*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order No.19 and substituting therefor the following new Standing Order—

**Party Leaders and order of precedence**

**19.** (1) Pursuant to Article 108 of the Constitution, there shall be a Leader of the Majority Party and a Leader of the Minority Party.

- (2) The Leader of the Majority Party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties.
- (3) The Leader of the Minority Party shall be the person who is the leader in the National Assembly of the second largest party or coalition of parties.
- (4) The following order of precedence shall be observed in the National Assembly—
  - (a) the Speaker of the National Assembly;
  - (b) the Leader of the Majority Party; and,
  - (c) the Leader of the Minority Party.
- (5) The Speaker shall facilitate the Leader of the Majority Party and the Leader of the Minority Party in the discharge of the business of the House on behalf of their respective parties or coalition of parties in the National Assembly.

*(Hon. Aden Duale consulted loudly)*

I hope Hon. Duale is listening to this because he is the one who initiated these proposals. This is a proposal that touches on the issue of the party leader and order of precedence. The justification is to establish the offices of Leader of Majority Party and Leader of the Minority Party and prescribe the order of precedence in the House in line with Article 108 of the Constitution. It also requires the Clerk to facilitate the discharge of House business by the two leaders on behalf of the majority and minority parties.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, as the first occupant of this office for many years, the most important thing is the precedence set in Article 108, which is now allowing the Speaker to facilitate in line with other jurisdictions. We now have specific rooms for caucuses for the coalition if the party leadership wants to meet and if their party leader wants to come to the House. This gives the Speaker room, as the Chair of the Parliamentary Service Commission, to even create a certain budget line so that under the presidential system that we are used to, parties and their leadership can get very strong positions. Before, the Speaker or the Chair of the PSC was handicapped. I think with this amendment, the Speaker can support both the Leader of Majority Party and the Leader of the Minority Party with their caucuses.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.19 as amended agreed to)*

*Standing Order No.20*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

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THAT, the Standing Orders be amended by deleting Standing Order 20 and substituting therefor the following new Standing Order—

**Election and removal of the Leader of the Minority Party and Deputy Leader of the Minority Party**

20. (1) The second largest party or coalition of parties in the National Assembly shall elect—

- (a) a member of the National Assembly belonging to the party or coalition of parties to be the Leader of the Minority Party;
- (b) a member of the National Assembly belonging to the party or coalition of parties to be the Deputy Leader of the Minority Party.

(2) In electing members under paragraph (1), the second largest party or coalition of parties in the National Assembly shall take into account—

- (a) any existing coalition agreement entered into pursuant to the Political Parties Act; and,
- (b) the need for gender balance.

(3) The Minority Party Whip shall communicate the names of the Members elected under paragraph (1) to the Speaker in writing on behalf of the Minority Party.

(4) The Speaker shall, as soon as practicable following receipt of the names under paragraph (3), convey the information to the assembled House, if the House is sitting, or notify Members, if the House is not sitting.

(5) A Member of the second largest party or coalition of parties may propose the removal of a Member elected under paragraph (1) by submitting a motion for consideration by the second largest party or coalition of parties together with the names and signatures of at least a quarter of all the Members of the second largest party or coalition of parties in support.

(6) A Member elected under paragraph (1) may be removed by a majority of votes of all Members of the second largest party or coalition of parties in the National Assembly.

(7) The Minority Party Whip shall forthwith, upon a decision being made by the second largest party or coalition of parties, notify the Speaker in writing of the decision of the largest party or coalition of parties to remove a Member elected under paragraph (1) and submit—

- (a) the minutes of the meeting at which the decision was made by the second largest party or coalition of parties; and,
- (b) the names and signatures of the Members who resolved to remove the Member at the meeting.

(8) Upon receipt of the notification and the documents under paragraph (7) and confirmation that the threshold for removal has been met, the Speaker shall notify the House of the decision of the second largest party or coalition of parties and the office of a member elected under paragraph (1) shall fall vacant.

This is another thought from Hon. Duale. It touches on issues of elections, removal of the Leader of the Minority Party and Deputy Leader of Minority Party. The justification is to enhance the process of elections and removal from of office of the Leader and Deputy Leader of the Minority Party.

A Member seeking to remove the Leader and Deputy Leader shall file a Motion with the party supported by, at least, one quarter of the Members of the party. When communicating the decision of the removal of the Leader or Deputy Leader, the Whip must attach minutes of the meetings, names and signatures of Members who attended and resolved the removal of the Leader or Deputy Leader of Minority Party.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, this is good for everybody. Just like the way we have the fair administrative justice and the procedure even for removing a Member from a committee, the leadership of this House should not be subjected to removal from office in funerals and public rallies under the whims of some people who sit very late in the night under the influence of certain products.

The House must follow due process. If you want to remove Hon. Jude Njomo, you must follow due process. I am talking as a victim. Until today, there are certain signatures that I am yet to see. When my book comes out and it talks about that period, what will people say? We must protect future leaders. It might not be me. It might be somebody else, but there must be due process in law. How we submit the lists, minutes and signatures to the Speaker is a process which must be documented in our Standing Orders.

**Hon. Deputy Chairman:** Is there any other comment? Hon. Ichung'wah?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Deputy Chairman. I also rise to support this particular amendment. It is very progressive. As the ranking Member for Garissa Township has said, it is also in pursuit of the Fair Administrative Action Act, whose provisions in terms of fair administrative processes state that any person being removed from office ought to be given a fair chance to be heard, and to know what he is being accused of.

I honestly sympathise with Hon. Aden Duale, because I was a Member of the party in which Hon. Aden Duale then served as the Leader of the Majority Party. It is true that the removal of Hon. Aden Duale as the Leader of the Majority Party was extremely unprocedural. No party caucus sat anywhere; no parliamentary group meeting and no party organ sat to even listen to the accusations against Hon. Duale. He had diligently served the party, but was removed in a very unprocedural way. So, it is only right that we protect future leaders of minority and majority parties.

Hon. Deputy Chairman, you have also seen the case we had of Hon. Aisha Jumwa in the Parliamentary Service Commission that you serve in. There were attempts by a political party to remove her without following due process. So, it is only fair that we protect both the leaders of the minority and majority parties in our Standing Orders, where Members have a say. These are leaders of the House. They do not lead their political parties in the House, but Members of Parliament. Therefore, it is only right that if any of them is to be removed, whether from the minority or the majority parties, the Members they are leading have a say as to the person they would want to lead them.

With that, I support the amendment.

**Hon. Deputy Chairman:** Is there any other Member? Hon. Martin Owino, Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you so much, Hon. Deputy Chairman. I want to add my voice to this. Fairness is paramount at all levels, not just in leadership. I want it to be on record that this is for future prosperity and not driven by victims. If we put it like that, it will be

reactionary instead of precautionary. This is a good thing. I am just wondering why it recommends names and signatures of, at least, a quarter and not a third of all the Members of the second largest party or coalition of parties in support. Even if we have a vendetta, a quarter is still a small number of people to gather signatures from to get someone out or bring them to the House.

I support the amendment.

**Hon. Deputy Chairman:** I am sure that many of you may recall that we came up with the process in Standing Order Nos.173 to 176 towards the tail-end of the 11<sup>th</sup> Parliament. I recall that even getting them passed was problematic. Even notifying a Member was a problem. It is good that it is incremental, Hon. Owino. It is good for us. We are doing these Standing Orders for the 13<sup>th</sup> Parliament. They are not to be applied in the 12<sup>th</sup> Parliament. The reason I am here is because they are not meant to be used by this Parliament. They are for future Parliaments. Maybe they could find it necessary to increase the threshold, which will be even better. They could even come up with a 50 per cent threshold, but it is good to start somewhere.

Let us have Hon. Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Deputy Chairman. I agree with the amendment, but I also have reservations on the justification that was given by Hon. Duale and Hon. Ichung’wah. It is important that we look at this as an amendment to improve implementation of work in the 13<sup>th</sup> Parliament, and also ensure that we do not look at it as a correction of what has already passed, because that is in the past. That justification is not acceptable, but he has a right to say that.

This amendment is good because it also takes care of party loyalty. People become leaders of minority and majority parties in this House because they have been loyal to a party. So, party loyalty is paramount and the Standing Order that we have amended today takes care of that. So, there is no way someone can be a leader of the minority or majority parties without being loyal to that party.

**Hon. Aden Duale** (Garissa Township): On a point of order, Hon. Deputy Chairman.

**Hon. Deputy Chairman:** I hope it is a point of order on something that she has said, which is out of order, and not a point of argument.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, I think Hon. Nyamai is out of order and you must correct her. There is a tendency for some people to come to the House and contribute based on what other Members of Parliament have said. We have our own justification and all the rights. You should also justify your point, but do not use my point. We make laws after using them. It is out of order for you to criticise my free thoughts and conscience. Think for yourself.

**Hon. Deputy Chairman:** No, it is not out of order to criticise. She still supports the amendment. Standing Order No.173 provides that before a Member is de-whipped, they be notified, so that if any disciplinary action is proposed to be taken, they appear before the relevant caucus of the party. This has not been applied before. You know it is good that we are doing this at the tail-end of this Parliament. We really argued about this thing with your predecessor, the late Hon. Jakoyo Midiwo, only for him to come much later and say, “Yes, there is merit in this”. It is good for Members because you cannot just de-whip a Member from a committee. They are elected or specially-elected Members. You have put them in a committee. Should the party that appointed a Member feel that they need to remove him, it is only fair that they tell him or her. Please, it is not good to just wake up or sit in some small room – I do not know if it is called the blue room – in Norfolk Hotel, and then somebody is removed. It is not good because this causes unnecessary tension to that Member’s immediate family, friends and relatives.

Remember, it is this same House which passed the Fair Administrative Action Act to implement the constitutional provisions on fair administrative justice. We are trying to clean up our Standing Orders to make them much easier. A Member could say something over the weekend, and when he or she comes here, I cannot judge them on the basis of what they said over the weekend. At that time, the Member was dealing with villagers or was in their church or mosque. That should not bother me. The Member could have even said something about me, but because they said it out there, I should not hold it against them. This is the culture which we are trying to inculcate among Members and the leadership. I think it is okay for Hon. Nyamai to criticise, but nevertheless, support.

Let us have Hon. Ndindi Nyoro.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you, very much, Hon. Deputy Chairman. I rise to support because this amendment will enable a person to be heard before being condemned. It runs contrary to the politics of personality cult where a political party is an individual and can do anything arbitrary. It does not just streamline the workings of this House, but also enhances our democracy as an institution that is not based on the whims of the party leader.

It protects the party leaders because sometimes they may be powerful, but wrong. We may need a person who is less powerful to correct them and in the long-run, this guidance will be for the benefit of the more powerful person. Therefore, I support because this diminishes the politics of hero-worshipping and personality cults especially of party leaders.

**Hon. Deputy Chairman:** Very well.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.20 as amended agreed to)*

*(Standing Order Nos.21, 22, 23, 24,  
25, 25A, 26, 27and 28 agreed to)*

*Standing Order No.29*

**Hon. Deputy Chairman:** Mover.

**Hon. Moses Cheboi** (Kuresoi North, JP): Thank you, Hon. Deputy Chairman. I beg to move:

THAT, Standing Order No.29 be amended by inserting the following new paragraph immediately after paragraph (5)—

(6) Where the House holds a special sitting on any day between two of its sessions, the sitting shall be deemed to have been held in the session immediately preceding the sitting.

This will provide for a session in which special sittings held between two ordinary sessions of the House will fall in. This is fairly straightforward.



*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No.29 as amended agreed to)*

*(Standing Order Nos.30, 31, 32, 33, 34, 35,  
36, 37, 38, 39, 40, 41 and 42 agreed to)*

*Standing Order No.42A*

**Hon. Deputy Chairman:** Mover.

**Hon. Moses Cheboi** (Kuresoi North, JP): Thank you, Hon. Deputy Chairman. I beg to move:

THAT, Standing Order No.42A be amended by inserting the following new paragraph, immediately after paragraph (6)—

(7) Where the Minority Party is the party forming the national Government, the duties under paragraph (5) and (6) shall be undertaken by the Leader of the Minority Party.

This is an extremely interesting bit where there is anticipation of a government which is a minority in Parliament, but still forming the government. The justification of this amendment is to provide for instances where the Leader of the Minority Party will undertake duties where the Minority Party is forming the national Government. This kind of scenario unfolded in 2007 between the National Rainbow Coalition - Kenya (NARC) and the other party.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Deputy Chairman. I support even though this is very unlikely to happen. Kenya Kwanza will flood this House in the 13<sup>th</sup> Parliament *In shaa Allah*. This happened in another jurisdiction, I think in the second term of President Obama where he had a minority. One time, Nancy Pelosi was the Majority Leader and the next time, she was the Minority Leader. This can happen in a presidential system. I support the amendment by the Chair of the Committee.

**Hon. Deputy Chairman:** Sorry. Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Deputy Chairman. I also support this amendment. I want to give an example of my own county where the governor has the minority in the assembly and they form the government. I think it makes a lot of sense to have this in the Standing Orders.

I support.

**Hon. Deputy Chairman:** Hon. Members, you can imagine we have very many independent presidential candidates. Supposing, God forbid, any of them wins?

**Hon. Members:** No.

**Hon. Deputy Chairman:** I guardedly said God forbid. Hon. Ndindi Nyoro.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you very much, Hon. Deputy Chairman. I support because in 2007, we had the same... However, as the former Leader of the Majority Party stated,

I do not see this happening in the current election. All projections are that the coalition going to form the Government will not just have a majority, but a super majority in Parliament.

It is good for this House to be proactive and make laws for the future other than to be caught off-guard like in 2007. I also plead with county governments to borrow this from the National Assembly. This problem is more prevalent in county assemblies where you have governors leading minorities. I hope they are learning and should cascade the same in their county assemblies.

**Hon. Deputy Chairman:** True, if you look at contemporary jurisdictions, the example given by Hon. Duale is valid. If you recall, in the same jurisdiction in the United States of America (USA), there was a Speaker by the name Newt Gingrich, a Republican. The reason why he kept harassing President Bill Clinton is because his party, the Democrats, were the minority in the House. We copied the American system in our Constitution. The only time you have a Speaker is when your party is in Government. Since they hold mid-term elections after two years, the Speaker could easily lose the majority and then go and sit on the other side.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No.42A as amended agreed to)*

*Standing Order No.42B*

**Hon. Deputy Chairman:** Mover.

**Hon. Moses Cheboi** (Kuresoi North, JP): Thank you, Hon. Deputy Chairman. I beg to move:

THAT, Standing Order No.42B be amended by inserting the following new paragraph immediately after paragraph (5)—

“(5A) A Member scheduled to ask a Question in the House may, at least two hours before a sitting, nominate another Member to ask the Question in his or her absence by notifying the Speaker in writing.”

This is a very common problem where Members delegate to others to ask Questions on their behalf. Sometimes, two Members rise at the same time and claim to have instructions to ask a Question on behalf of a Member who is absent. So, we are trying to allow a Member to formally nominate another one to ask a Question on his or her behalf.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No.42B as amended agreed to)*

*(Standing Order Nos.42C, 42D and 42E agreed to)*

*Standing Order No.42F*

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**Hon. Deputy Chairman:** Mover?

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman I beg to move:

THAT, Standing Order No.42F be amended in the opening statement by deleting the words “submit a progress” appearing immediately after the word “shall” and substituting therefor the words “by way of a Statement”;

This is to require Committees to make Statements on Questions and reduce instances of Members having to query, which has been very common, the status of their Questions on the Floor of the House, because there will be time for Chairs to submit progress on those Questions.

Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.42F as amended agreed to)*

*(Standing Order No.43 agreed to)*

*Standing Order No.44*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Chairman, I beg to move:

THAT, Standing Order No.44 be amended—

(a) in paragraph (2)—

(i) in subparagraph (a) by deleting the words “every Thursday” appearing immediately after the words “purpose shall,”;

(ii) in subparagraph (b) by deleting the words “or Leader of the Minority Party as the case may be” and substituting therefor the words “, the Leader of the Minority Party, the chairperson of a committee”

(iii) by deleting subparagraph (c) and substituting therefor the following subparagraph—

“(c) a Member may request for a Statement from the Committee chairperson relating to matters under the mandate of the Committee which shall be made within twenty-one days of the request or such shorter period as the Speaker may direct.”

(iv) by inserting the following new subparagraphs immediately after subparagraph (c)—

(d) A chairperson of a committee may, with leave of the Speaker, make a statement relating to the mandate of the committee;

(e) by the indulgence of the House, a Member may explain matters of a personal nature although there is no question before the House, but such matter may not be debated.

(b) by inserting the following new paragraph immediately after paragraph (2)—

(3) A request for a Statement or a response to a Statement under paragraph (2)(c) shall not be permitted unless notification has been approved by the Speaker, at least, a day before the particular sitting and notified in the Order Paper.

The justification is to allow the chairpersons of committees to make Statements relating to the mandate of their committees, also to re-introduce Standing Order No.84 on Personal Statements for logical flow of Standing Orders, and to provide timelines of 21 days or such shorter period, as the Speaker may direct, for Statements requested by Members from committees.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.44 as amended agreed to)*

*Standing Order No.45*

**Hon. Deputy Chairman:** Mover.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Chairman, I beg to move:

THAT, Standing Order No.45 be amended—

(a) by deleting paragraph (2) and substituting therefor the following new paragraph—

“(2) Despite paragraph (1)—

(a) appointments under Article 152(2) of the Constitution shall stand committed to the Committee on Appointments; and

(b) the Speaker may, in exceptional circumstances, direct that a particular appointment be committed to such committee as the Speaker may determine.”

(b) in paragraph (4) by deleting the word “fourteen” appearing immediately after the words “House within” and substituting therefor the word “twenty-one”.

This is basically on public appointments, which is to increase the period of approval of public appointments from 14 to 21 days, and to empower the Speaker to commit appointments to

other relevant committees of the House in exceptional circumstances so that it is not necessarily departmental committees. It could be other relevant committees.

*(Question of the amendment proposed)*

*(Hon. (Ms.) Shamalla Jennifer rose in her place)*

**Hon. Deputy Chairman:** Any comment? Yes, Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated JP): Thank you, Hon. Chairman. I am curious to understand why the time is being enhanced from 14 to 21 days. It seems rather excessive, but I would like to understand the rationale.

**Hon. Deputy Chairman:** I do not know whether the Chairperson has heard you.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, that appeared to me as fairly straightforward. We have been doing some of these things, and sometimes we run short of time. This is basically to give enough time so that we do not have to rush. Some deliberations that are done in the Committee on Appointments are severely narrowed down as a result of lack of time. It is a question of improvement on issues of appointments and other such things.

**Hon. Deputy Chairman:** Dr. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Chairman, I think this amendment is quite important for this House. In the past and especially the 12<sup>th</sup> Parliament, we saw a number of committee chairpersons requesting for additional time to sort out some of these issues. Where there is no time, they have to rush because it is either you do it within 14 or 21 days. This, therefore, makes a lot of sense so that we allow committees enough time to do justice to these kinds of activities.

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, we are adopting the United States of America's system, and we must totally agree that it is the same jurisdiction. Approval of USA's ambassadors – forget about ministers – takes about six months. The nominee for Kenya was approved about three weeks ago. This House needs to have more time to do serious and diligent work. Even the people who give affidavits need to be given opportunity to appear before the committee. When the Ethics and Anti-Corruption Commission (EACC) contradicts itself and sends two different letters, the officials of that body must come before the committee. I, therefore, totally agree. I sat with you in the Committee on Appointments, and I think there is a lot of rush. Just like we are asking for more time for the Supreme Court to deal with presidential petitions, this is similar.

I, therefore, support the amendment. In fact, we should have said a period of a month. The House should not be at the mercy of the Executive. The House can even say that we are going to approve and go to... The other day, I saw a Commissioner of the EACC being approved and he attended the interview virtually. That has never happened. It is not permitted in our Standing Orders.

*(Loud consultations)*

While I am talking, you shut up, because you had your chance.

I support.

**Hon. Deputy Chairman:** Hon. Gichimu, Member for Gichugu.

*(Loud consultations)*

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Deputy Chairman. I support the period noting that the Standing Orders also require that a seven-day notice ought to be given to the person to appear before the committee. I also support the amendment so as to avoid rushing of due diligence in terms of establishing details from various institutions including the EACC and all the others. This is a very important amendment to the Standing Orders, and for the committee to give a very informed report in respect of the person being appointed.

**Hon. Deputy Chairman:** Hon. Nyamai, I know you are a heavy consumer of reports.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Yes, and thank you very much, Hon. Chairman. In my judgement, this is a very good amendment because we have experienced strain especially when you have 14 days and you are dealing with a long list of appointees. Also, as my colleague has just said, when you have to wait for other constitutional bodies to give clearances and you have many people to interview on various topics. To me, this is very important that we get seven more days.

**Hon. Deputy Chairman:** Hon. Members, I hope you also remember that having experienced difficulties, this House did amend the Public Appointments (Parliamentary Approval) Act, 2012 to increase the period from the initial 14 to 28 days. The law is couched in such a way that if you have not approved or expressed yourself as a House in one way or the other on the nominees, they are deemed to have been approved. It then makes absolute nonsense of requiring the House to approve if the House is being hurried, and there is no time in going to details. Anyway, Hon. Members, let me put the Question.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.45 as amended agreed to)*

*(Standing Order Nos. 46, 47, 48, 49, 50 and 51 agreed to)*

*Standing Order 52*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 52 be amended by inserting the following new paragraph immediately after paragraph (k)—

(ka) an exceptional motion for the tributes of the House under Standing Order 259D.

This is to include an exceptional Motion of tributes of the House as a Motion that may be moved without notice.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Gitonga Murugara.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Deputy Chairman. I think this amendment is timely. Previously, you have been using your discretion to give us permission to pay tribute to affected persons. Now that we are going to have an anchored rule in the Standing Orders, we will be able to move a Motion to pay tributes to specific persons. This is timely.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No. 52 as amended agreed to)*

*(Standing Order Nos. 53, 54, 55, 56, 57, 58, 59, 60 and 61 agreed to)*

*Standing Order 62*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 62 be amended in paragraph (2) by inserting the words “or such other time as the Speaker may determine” immediately after the word “taken”.

This is to allow the Speaker to designate a further date on which a vote may be taken in instances where the Constitution requires a fixed majority of Members of the House.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.62 as amended agreed to)*

*(Standing Order Nos. 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74,  
75, 76, 77, 78, 79, 80, 81, 82, 82A, 82B and 82C agreed to)*

*Standing Order No. 83*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 83 be amended in paragraph (1) by inserting the words “by rising in his or her place” immediately after the words “Member may”;

This is basically an issue that has arisen out of use of electronic gadgets. It will require a Member to rise in his or her place when raising a point of order. This is akin to what used to happen before. Members who were in the House earlier—myself, you the Chair, Hon. Duale in his first term and Hon. Naomi Shaban—know that. Rising in one’s place gives the Speaker an opportunity to differentiate between points of interventions.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, I oppose the amendment because we abandoned analogue systems. I served in the 10<sup>th</sup> Parliament. You served in the 9<sup>th</sup> Parliament. If you allow people to rise in their places, you will have crowds. Let us use electronic method for interventions. The Speaker, the Deputy Speaker and Members of the Speaker's Panel should agree on this one. I ask the respectable Deputy Speaker to withdraw the amendment because it takes us back to the old system. Let us use the gadgets which Parliament has invested in. Otherwise, there are Members who will be standing on points of order the whole day.

**Hon. Deputy Chairman:** Hon. Wanga.

**Hon. (Ms.) Gladys Wanga** (Homa Bay, ODM): Hon. Deputy Chairman, let me agree with Hon. Duale. We move forward. We never move backwards. The intervention system has worked except for when a Member does not have his or her card. There needs to be discipline of having to carry your cards. We moved to the use of iPads. We no longer have papers in the Chamber. We should be moving forward. You should be telling us there will be a robot flying around. We have to move forward. The idea of standing and sitting will lead to too much exercise in the Chamber and the Speaker will not be able to tell who raised an intervention before the other. The Speaker will have to calculate the velocity at which you stand or sit.

Thank you, Hon. Deputy Chairman. I oppose.

**Hon. Deputy Chairman:** Let us hear what the Deputy Speaker, as the mover of the amendment, is explaining.

**Hon. Moses Cheboi** (Kuresoi North, JP): You know, Hon. Deputy Chairman, I am a bit surprised especially by Hon. Duale. This is a question that has arisen out of use of the Standing Orders. One, the console shows only about four names. Many times the Chair is accused of not 'seeing' Members with interventions and yet the screen shows only four Members at ago. Sometimes a Member wants to raise a point of order while others press the intervention to be recognised to contribute. We are not going back to the analogue system. If you go to the House of Commons, this is what happens. This does not affect very much the presidium. It affects Members. The complaint has been that: "Hon. Speaker, I pressed the intervention button but you are not seeing me." Sometimes there are 10 or 20 Members seeking to raise interventions. It is not very easy for the presidium to recognise them.

It is up to you, Members. If you choose you want to go the electronic direction, then do not have your cake and eat it. Do not ever accuse the presidium of not seeing or noticing you. By the way, in my thinking, you have nothing to lose. We might bring back a procedure that was used a long time ago. If it was not as bad, it is not necessary to fix it. We are fixing this procedure because we have seen its weaknesses. I can see most of the Members speaking, including myself, still aspire to come back to the House and it looks like they have extremely good chances. We would not want a situation where you accuse the presidium of bias. For example, if Members rise all over the Chamber, the Speaker is able to see their moods. So let us be careful. I wish the Members would support the amendment. If indeed they have a major problem, there is something I can do to cure the amendment.

**Hon. Deputy Chairman:** Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Deputy Chairman, the challenge with this amendment is that when you are seated there, how do you determine the person who rises first? I am on this side and Hon. Wanga is on the other side. If we all stand up, how do you



determine who to start with? In terms of order, the system we are using makes a lot of sense. So I propose that we do not adopt this amendment.

Thank you, Hon. Deputy Chairman.

**Hon. Deputy Chairman:** Let us hear the Member for Dagoretti South before you inform the Chair because he spoke about standing and I was just wondering how Hon. Tim Wanyonyi and Hon. Dennitah Ghati would now be able to stand. Hon. Kiarie.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Deputy Chairman, you have actually just taken the words out of my mouth because it would be calling for us to be gesturing to the presidium. I agree very much with the Chair of the Departmental Committee on Finance and National Planning that we should actually be progressing and not regressing. In fact, if we are proposing any change, it should be moving beyond the computers we have here to now find out how we can incorporate artificial intelligence to assist the person on the presidium to be able to identify Members. There are two things; one is about showing interest and secondly, it is in the order in which you show interest. This is because if the order is disorganised, the person at the presidium will be using their own discretion to decide who speaks before the other. Because we shall be having two issues to be dealt with, which is that I should show interest; and secondly, it should also register the order in how I showed interest. I do believe that we should be progressing and not retrogressing.

With reference to the House of Commons, we are actually more advanced than the House of Commons in terms of the systems that we apply in this House. So we should not be looking at our former colonisers and imagining that they are more advanced than we are. We are actually a bit more advanced than they are in terms of technology.

Hon. Deputy Chairman, I oppose.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): On a point of information, Hon. Deputy Chairman.

**Hon. Deputy Chairman:** You have information to the Chairman? Okay.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Deputy Chairman, the information I want to give is that sometime in the last Parliament, we visited Germany's Brahler with you with the intention of always updating them on the challenges of the system. Whenever we update them, they are able to design systems that can actually help with addressing the challenges as they emerge. So, we should not be going back. We should advise Brahler that this is the challenge we are having – like the fact that so few names of Members seeking to intervene appear on the screen of the system – and see how they can enhance the system's capacity to display more names. We should not be taken back to standing.

**Hon. Deputy Chairman:** The Chair wants to withdraw. You know there is still a lot of business. Now that the Chair wants to withdraw, why do we not give him the opportunity?

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, seated where you are, you saw what an hon. Member was doing when he wanted to catch your attention. He put up his hand. It is worse to put up your hand or gesture and sometimes even to grimace. This happens all the time. We are actually trying to do this thing. By the way, I have no intention of pushing it very hard because many of the things we are doing today are for the next Parliament and are for the good of Members. We are bringing in things that we have seen. If Members, on their own volition, feel that we should not progress with it, I really would not have a problem with it. However, so that I do not look like I have muzzled this amendment, this being something that came out of the Committee, the better way would be to allow Members to vote on it one way or the other rather than withdraw it. I had really thought of withdrawing but I realised that it is not my own

amendment. It is better for them to throw the baby with the water. We have seen it. It is practical. Even when Hon. Nyasuna, the gracious lady, wanted to give information, which ordinarily I would have refused but coming from her I cannot – it is not easy to refuse – she also stood. She actually practised this.

Hon. Deputy Chairman, I can tell you that when Hon. Duale was the Leader of the Majority Party, because there is order of precedence according to our Standing Orders and according to the Motions that we make all the time, sometimes he would put his card in the gadget and his name would be at the tail-end of the requests list. During such instances, as the Leader of the Majority Party, you really would have to recognise him even though you could not see his name on the requests displayed on the gadget. This is something we can tamper with so that we have both the old and the new system. We can get a little good of the old and the House will look a bit active when you see Members really wanting to contribute. From the Chair, you can read the mood easily.

Let us allow Members to make their decision one way or the other.

**Hon. Deputy Chairman:** There is a technical issue that was raised by Hon. Wanga, which I think is important to also consider – that, the manufacturers of these gadgets can actually cure the mischief by providing, at the presidium, a bigger screen with bigger provision. What the Deputy Speaker is saying is true. Sometimes it can be very difficult to know who it is that wants to speak. Hon. Members, you also confuse the presidium. Let me just also speak to this. Some of you press your intervention buttons and you relax yet all you want is to catch the Speaker's eye. You leave and block that path making it impossible for the person on the Chair to know who wanted to contribute or who wanted to just intervene. It is one of those things that I think what has been said by Hon. Gladys Wanga is also something that should be considered by the administration of Parliament. Because you have spoken, why do we not get that Member who has not spoken? Member for Gichugu.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Deputy Chairman. I oppose the amendment and the reason that has been given by the mover that sometimes the screen can display four names at once. It is better to deal with four names than having 20 or 30 people standing across the entire Chamber. I believe that it can, probably, be qualified that the amendment can stand if the gadgets or the system we are using fail. That is when now we can use the system he is talking about so that we do not lose everything from his side. He has put a very spirited effort but when the gadgets are operational, we use the system.

**Hon. Deputy Chairman:** The Member for Mathioya has not spoken. Let me hear from him.

**Hon. Peter Kimaru** (Mathioya, JP): Thank you, Hon. Deputy Chairman. I think you have convinced me on the need of the two systems. The reason is what we have continued to see in this House. People press intervention buttons unnecessarily. Having said that, I think it is important for us to continuously upgrade our IT system. We can actually even come up with solutions that are now real time so that up to the second, you can be able to know who the top four are in terms of interventions. We can even have a situation where even in the interventions, you can be allowed to use your pad and say exactly what matter you really wanted to speak on. The Speaker can be able to pick that better and see that you really wanted to talk on that particular issue and give you an opportunity to expound it. I support but I think it is important for this House. We really want to say "Thank you" because we have seen where we have come from. These gadgets actually came with us in the 12<sup>th</sup> Parliament but there is room for further improvement so that we get something that is more real tech.

Thank you.

**Hon. Deputy Chairman:** Hon. Martin Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Deputy Chairman. I just want to remind Members that when we have proceedings in this House, we are even watched by the House of Commons. I had the privilege of meeting one of my friends who is a Member of the House of Commons from Croydon. They admire how advanced and how we do our proceedings using a digital system. So, we should not regress. We should move on. Lastly, if showing hands and making noise when you are seated is irritating, how about when you stand up and the lungs are open? You will not manage that, Hon. Deputy Chairman. So, let us oppose this amendment in totality and move on.

*(Laughter)*

**Hon. Deputy Chairman:** Hon. Members, those of you who were in the 11<sup>th</sup> Parliament recall the difficulties I would get when I saw a whole crowd of people and another one there. I would not know who stood before the other. You see a group of five or 10 Members, and then you start looking at the one in a *buibui*, a receding hairline or who has combed his hair this way. You do not even know what to do.

Hon. Gitonga.

*(Laughter)*

**Hon. George Gitonga** (Tharaka, DP): Hon. Deputy Chairman, I watched parliamentary proceedings for the first time when I went to secondary school. That was when I saw a television set for the first time. As we watched the proceedings of Parliament, it looked funny that for whatever reason, many Members would stand at once but only one of them would be picked – like the late Hon. Martin Shikuku or my Member of Parliament at that time, Hon. Njagi wa Kiondo. The rest of the Members standing would sit down. After the Member speaking finished his contribution, they would all stand up again. It looked very disorderly. What we have is good. We have been here for the last five years. This system was installed when we almost came in. It works very well. Let us improve it. Let us have a reservation so that just in case it fails, we can move to those manual and physical gestures that we are talking about. However, let us leave it for now. Let us work with the gadgets that we have, so that we move forward and not backwards where all of us stand up at the same time, sit down and then stand up again like people who have lost it.

Thank you, Hon. Deputy Chairman.

*(Laughter)*

**Hon. Deputy Chairman:** Let me hear the very tall Member for Tiaty.

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Deputy Chairman, while the arguments that have been put forward by my colleagues are quite convincing, I still believe that a little bit of the old system will serve. I speak as a former Speaker of the County Assembly of Baringo. When a Member really wants to say something, there is that action of trying to catch the Speaker's eye, which is quite traditional. This other one of the gadget is good but also bad in a way. When a Member is really eager to catch the Speaker's eye, there is no harm at all in trying to do so by standing up. As we try to improve our systems to add the number of Hon. Members who want to raise interventions, a little bit of the mixture of the old and the new does not do any harm.

**Hon. Deputy Chairman:** Hon. Kamket, suppose incrementally we get these gadgets reconfigured in such a way that when a Member accidentally places his card and presses the intervention button, it is rejected? We can reconfigure it to make some sound or light that flickers. I am trying to imagine something. I am with you on the idea of catching the Speaker's eye. We can have something that flickers to an extent that there is no way the Speaker will not see that there is something, even if your name is down there. We can improvise it to do that.

**Hon. Kassait Kamket** (Tiaty, KANU): I cannot put it any better, Hon. Deputy Chairman. However, rising up in your place is a reflex action.

*(Laughter)*

It shows the eagerness or extreme interest of the particular Member on that point. However, I do not mind what you have said. We need a little bit of a mixture of both. A hybrid will do.

**Hon. Deputy Chairman:** Will this happen when there is a failure?

**Hon. Kassait Kamket** (Tiaty, KANU): Yes.

**Hon. Deputy Chairman:** Hon. Kiarie KJ.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Deputy Chairman, I know that everyone has a feeling about this. However, we should just look at the principle, what mischief we are trying to cure and whether technology can actually cure it. What Hon. Kamket is talking about are bodily actions of gesturing. Let us take an example of an iPhone or even the iPad that we are using. Steve Jobs translated human gestures into actionable technology. When you look at your phone, it actually goes by the dictates of normal human gestures where the technology now assists. The problem that I have with having people shooting up out of reflex is the fact that this was a practice that happened the last time in the 11<sup>th</sup> Parliament, which had 210 Members. This is a much bigger Parliament. When we start talking about people popping up like popcorn in the House, even the presidium itself will run into confusion. So, I would like to go along the line you were talking about where the technology— which we have actually bought— can be improved. We work on the problem of catching the Speaker's eye and establish the order in which the Speaker will identify the people who will have "shot up". I believe that technology can have a solution for the mischief that we are trying to cure.

Thank you very much, Hon. Deputy Chairman.

**Hon. Deputy Chairman:** Everybody has spoken to this amendment. Can I put the Question?

*(Question, that the words to be inserted  
be inserted, put and negatived)*

*(Standing Order No.83 agreed to)*

*Standing Order No.84*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, this is the difficulty with bringing a Committee Report to the House. Sometimes you do not know whether to withdraw an amendment or not because when you withdraw it, again, you have not had a meeting. I tried to meet with a few of my colleagues who are in that Committee to try and withdraw the previous amendment. However, we could not make a decision. We said that the Members would do it.

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Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 84.

This is purely to delete and re-introduce the provisions in Standing Order No.44 that deal with Statements for the logical flow of the Standing Orders.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Members, if you can reflect back what we have just passed as an amendment to Standing Order No.44, it is now to remove Personal Statements from where they were. They appeared a bit misplaced. They were in a bush where they never belonged. Essentially, this amendment seeks to delete Standing Order No.84.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Standing Order No.84 deleted)*

*(Standing Order Nos. 85 and 86 agreed to)*

*Standing OrderNo. 87*

**Hon. Moses Cheboi:** Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 87 be amended by inserting the following new paragraph immediately after paragraph (5)—

(6) Except as the Speaker may otherwise allow, it shall be out of order for a Member to refer to an extract from print or electronic media as an authority in the Member's speech.

This is a very critical one. It is about the issue of using and relying on media as authority in the House. This is to preclude a Member from relying on extracts from media as authorities when addressing the House. The only good bit about this is that the Hon. Speaker is also given the power to allow in exceptional circumstances. This is because sometimes Members would bring even some very unreliable extracts from media that are probably not even recognized and therefore create issues in the House.

I thank you Hon. Deputy Chairman.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Let us have Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, as I support, I think we should be very careful. We should not look like we are curtailing the freedom of the media. Our Standing Orders are drawn mainly from the Constitution and the statutes passed by this House. The only words that make me comfortable are "Except as the Speaker may otherwise allow," which is very good as a safeguard. At times what the media report is factual. We are talking about the mainstream media, not social media and gutter press. The Hon. Speaker has a leeway to admit extracts from some credible media houses.

So, I support.

**Hon. Deputy Chairman:** The only thing is that the media is not being gagged. The media is at liberty to report anything they choose. They have absolutely no responsibility for many of the things they do. The idea is to try and minimize overreliance on media. As Parliament, we need to have documents that are authoritative. The media is never authoritative on anything. However, you recall in some jurisdictions, and even within Kenya some years back; there was one magazine which was fairly authoritative – *The Weekly Review*. These others these days pick their stuff from gutter press and put it in the mainstream media. So, it is good that there is some leeway and leverage left for discretion of the Hon. Speaker. If it is something that is of public notoriety that is being reported on, the Hon. Speaker will obviously not be so impervious as not to have also taken notice of it.

Let us have Hon. Makali.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Deputy Chairman, I like the way you are now putting it. Articles published by some media houses are very well researched by known scholars. I wish I would have said that we allow some room for verification so that if I quote a media house, I must check the accuracy of the information. There are some good articles that you read and find that they are well-researched papers and they are authority you can quote. However, the fact that you are saying the Hon. Speaker might allow, as a Member of Parliament, I will be allowed to provide proof that this is an accurate piece of information coming from the media.

I thank you and support.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.87 as amended agreed to)*

*(Standing Order Nos. 88 and 89 agreed to)*

*Standing Order No.90*

**Hon. Moses Cheboi:** Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 90 be amended by inserting the following new paragraph immediately after paragraph (2)—

(3) The Speaker may allow a Member to speak to a matter under deliberation after considering the nature, extent and effect of the interest declared by the Member.

(4) Any declaration made under this Standing Order shall be entered in the journals of the House.

This is to apply in the manner of recording of declarations of interest by Members and to empower presiding officers to determine the major effect and extent of how interest may prejudice the proceedings of committees. Sometimes you might have an interest in speaking about something of the University of Nairobi (UoN), for example. I do not need to declare the fact that, for example, I was in that university because those are other issues. So, we will determine at that point in time, the extent to which it affects the proceedings of committees. There are some interests which are pecuniary and will not affect the proceedings of committees.

*(Question of the amendment proposed)*

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**Hon. Deputy Chairman:** Let us have Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, I had my own amendments but I forgot this bit. Anyone who was in the 12<sup>th</sup> Parliament and part of the 11<sup>th</sup> Parliament will agree that people do not declare their interests. People sit in a committee where a company where they are shareholders or they were doing business with, or they had worked for, is involved and they do not declare their interests.

This amendment talks about if I have worked with Safaricom, Airtel or any other company before coming to the House and I become a Member of the Departmental Committee of Communication, Information and Innovation, when that company is appearing before it, just because of the history, I must declare my interests. Even when we have got vetting, if in one way that personality is from your county or constituency, you need to declare your interest. I think that is part of transparency and good governance. So, we have not been doing it but the Hon. Deputy Speaker, as the Chairman and the mover, has done well. I am sure we will make it mandatory in future. In the event that the Chair of that committee realises that a Member did not declare their interest, and participated in the deliberation, then there must be a recourse to that effect. That kind of interest is a matter within the Judiciary and everywhere in the Government.

I support.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing No.90 as amended agreed to)*

*(Standing Order Nos. 91, 92, 93 and 94 agreed to)*

*Standing Order No.95*

**Hon. Moses Cheboi:** Hon. Deputy Chairman, I beg to move:

THAT, Standing Order No.95 of the Bill be amended by inserting the following new paragraph immediately after paragraph (2)—

“(3) The provisions of this Standing Order shall not apply to a Bill to amend the Constitution.”

This is that particular bit of cutting debate. We are trying to allow Members desirous of debating a Bill to amend the Constitution an opportunity to do so without a threat of majority of the Members present resolving to close debate at any point they so wish.

To be very clear, let us remember that every time we have Members contributing on ordinary Bills, a Member can rise in his place and ask that the mover be called upon to reply.

A constitutional amendment is an extremely serious issue and so Members must be allowed and be seen by the public to have been allowed to do anything they desire to do as an amendment to the Constitution without threat of curtailing debate. We give it sufficient time.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Let us have Hon. Gichimu.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Deputy Chairman. That is extremely important. I believe in future, we should also look at Bills in respect of which some Members have contrary opinions. We have seen debate on some Bills curtailed by some people just by invoking Standing Order 95 simply because other Members had different opinions about the Bills. I believe in the spirit of the practice being introduced, we can improve our practice when it comes to ordinary Bills.

With those remarks, I support.

**Hon. Deputy Chairman:** Hon. Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Deputy Chairman, I am just wondering because even when somebody proposes that debate stops, it is still subjected to vote. So, I do not know how this will improve that. Sometimes we have a protraction because other people just want to do it for the sake of it. That also happens. Otherwise, it is good with the leverage of subjecting what has been proposed to pass through. The amendment gives a good breathing space. I do not want to oppose but ...

**Hon. Deputy Chairman:** He spoke about ordinary Bills but this one is about Bills seeking to amend the Constitution. That is what I understand it to be.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.95 as amended agreed to)*

*(Standing Order No. 95A agreed to)*

*Standing Order No.96*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Chairman, I beg to move:

THAT, Standing Order No.96 of the Bill be amended in paragraph (3) by deleting the words “the Speaker may forthwith put the question thereon or” appearing immediately after the word “House”.

Hon. Deputy Chairman, I do not want anybody to have confusion on this one. The previous one we did is on closing of debate. This one is dealing with adjournment of debate. The justification here is that we allow Members desirous of debating a Bill to amend the Constitution adequate opportunity to do so without threat of majority Members present resolving to adjourn debate at any point. The other one was on closure of debate.

*(Question of the amendment proposed)*

*(Question, that the words to be left  
out be left out, put and agreed to)*

*(Standing Order No.96 as amended agreed to)*

*Standing Order No.97*

**Hon. Moses Cheboi** (Kuresoi North, JP); Hon. Chairman, I beg to move:

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THAT, Standing Order 97 of the Bill be amended by inserting the following new paragraph immediately after paragraph (4);

“(5) The provisions of this Standing Order shall not apply to a Bill to amend the Constitution.”

The previous one is on adjournment of debate and the earlier one was on closure of debate. This one is to allow Members desirous of debating a Bill to amend the Constitution adequate opportunity to do so within any time limitation that the House may agree to impose.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agree to)*

*(Standing Order No.97as amended agreed to)*

*(Standing Order No. 98, 99, 100, 101, 102, 103, 104, 105, 106, 107,  
107A, 108, 109, 110, 110A, 110B, 111, 112, 112A and 113 agreed to)*

*Standing Order No.114*

**Hon. Moses Cheboi** (Kuresoi North, JP); Hon. Chairman, I beg to move:

THAT, Standing Order 114 be amended—

(a) by deleting paragraph (1) and substituting therefor the following new paragraphs—

(1) One or more Members, or a Committee, may submit to the Speaker a legislative proposal for introduction in the House together with a memorandum setting out the objectives of the proposal and the matters specified in Standing Order 117 (Memorandum of Objects and Reasons).

(1A) In jointly submitting a proposal under paragraph (1) the Members shall indicate—

(a) the name of the main sponsor of the proposal, who shall be the Member in charge of the proposal in the House; and,

(b) the names of the co-sponsors of the proposal, in alphabetical order; and,

(b) in paragraph (4) by deleting the words “twenty-one (21)” appearing immediately after the words “within” and substituting therefor the words “thirty (30)”;

(c) in paragraph (7) by deleting the words “twenty-one (21)” appearing immediately after the words “within” and substituting therefor the words “thirty (30)”;

(d) by inserting the following new paragraphs (immediately after paragraph (7)—

“(7A) In respect of a proposal to amend the Constitution—

(a) the proposal shall be accompanied by the signatures of at least fifty other Members in support, unless it is sponsored by the Majority Party or the Minority Party;

(b) where the Speaker approves the prepublication scrutiny of the proposal, the Speaker shall notify the House of the approval and may—

(i) allow the sponsor to make a statement on the objectives of the proposal;

(ii) allow comments on the statement made by the Member; and

(iii) facilitate collation of the views from the comments of Members at an appropriate forum;

(iv) brief the House on the contents of the proposal and other Members to comment on the proposal; and

(v) invite Members with similar or related proposals to make submissions before the Committee to which the proposal is referred;

(c) the forum or the Committee to which the legislative proposal is referred under subparagraph (b) shall—

(i) invite and consider submissions from the Attorney General; the commissions and independent offices established under Chapter Fifteen of the Constitution and any constitutional or statutory body with a law reform mandate; and,

(ii) in consultation with the sponsor, attempt to develop and recommend a harmonised version of the proposal arising from the submissions received.

Hon. Deputy Chairman, this will allow co-sponsorship of legislative proposals and Bills. It will also increase the period of pre-publication scrutiny from 21 days to 30 days. It will also help to actualise Article 256 (2) of the Constitution on the introduction of Bills to amend the Constitution and collection of varied views from Members and constitutional offices.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Yes, Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, the Mover is not fair. I want him to explain properly. There is a lot in this. He is deleting the whole of section... Are we at Standing Order No.114A?

**Hon. Deputy Chairman:** No.

**Hon. Aden Duale** (Garissa Township, JP): Okay. I am sorry.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.114 as amended agreed to)*

*Standing Order No.114A*

**Hon. Moses Cheboi** (Kuresoi North, JP); Hon. Chairman, I beg to move:

THAT, Standing Order 114A be amended—

(a) by deleting paragraph (1) and substituting therefor the following new paragraph—

(1) The Speaker may exempt a legislative proposal from the provisions of Standing Order 114 (*Introduction of Bills*) if the proposal—

(a) originates from—

(i) the Party forming the National Government; or,

(ii) a constitutional Commission or Independent Office and relates to the mandate of the Commission or Independent Office;

(b) seeks to implement a resolution of the House or a recommendation of the Public Petitions Committee to enact, amend or repeal any legislation; or

(c) is identical to a Bill that was passed by the House but lapsed at the expiry of the term of the preceding Parliament; or

(d) was introduced by the same Member and read a second time but lapsed at the expiry of the term of the preceding Parliament.

(b) by deleting paragraph (2) and substituting therefor the following new paragraph—

“(2) An exemption under paragraph (1) (a) may not be granted unless it is accompanied by—

(a) a copy of the relevant Cabinet approval, if the legislative proposal originates from the party forming the national government; or

(b) the policy underpinning of the legislative proposal and evidence of stakeholder consultations conducted, if the proposal originates from a Commission or Independent Office.”

Hon. Deputy Chairman, the justification is to allow the Speaker to exempt the following legislative proposals from pre-publication scrutiny:

(a) A proposal from a constitutional commission or independent office provided that they relate to the mandate of the body and are accompanied by policy underpinnings of the legislative proposals and evidence of stakeholder consultation conducted.

(b) A proposal that seeks to implement a resolution of the House or a recommendation for enactment of laws as a response to a petition proposal identical to those passed by the House but lapse in the preceding Parliament.

(c) Proposals of returning Members, those Members who made proposals in the previous term that were read a Second Time but lapse in the preceding Parliament.

On the last one in particular, once we get to another Parliament, there are Members who would be re-elected. It would not be of any use but will actually be expensive and unnecessarily difficult for Members to re-start a Bill which had gone through all the processes, including all the pre-publication ones, to be required to start it afresh. It is costly and unnecessary because some of the things would have been dealt with in the previous term, particularly if it is the same Member who is actually proceeding with the Bill.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, I thank the Chair. This is a very good amendment. It was only the Executive which was enjoying a lot of privilege from the Speaker in giving them the leeway. With this amendment, even an ordinary Member or a Committee or even when one's proposal dies in the Senate, the timeframe has changed.

More important about this amendment is that a Member cannot be used to amend the Constitution by himself. He must get the support and signatures of either 50 Members or use his majority party leadership or Minority Party strength in the House. We had all sorts of Bills here to amend the Constitution. For example, if one has issues with the Directorate of Public Prosecutions or the Inspector-General of Police, or has an issue with another independent commission or devolution, one just comes and proposes amendments to certain sections of the relevant statute. The threshold of 50 Members or going back to the party, be it the Majority or Minority parties, will give Kenyans the sense that it is a seriously thought out amendment to the Constitution.

I support.

**Hon. Deputy Chairman:** Hon. Owino.

**Hon Martin Owino** (Ndhiwa, ODM): Hon. Deputy Chairman, I thank the Chair for this. It is very tedious to come up with a Bill and move it through all the stages. Most of us are going to be victims because my Community Health Workers Bill has just passed through but I know it is going to die in the Senate. This is a Bill that went through stakeholder participation. To go back again to the stakeholders and say the same thing, they might think one is joking. If it is the same person having the same Bill, it makes a lot of sense.

I support.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Standing Order No.114A as amended agreed to)*

*(Standing OrderNos. 115, 116, 117, 118 and 119 agreed to)*

*Standing Order No. 120*

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**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 120 and substituting therefor the following new Standing Order—

**Publication and Introduction of Bills**

120. (1) A Bill shall not be introduced in the House unless—

(a) it is signed by the Member or Committee in charge of it;

(b) it contains the names of any co-sponsors, if it is jointly sponsored;

(c) the Bill, together with the memorandum referred to in Standing Order 117 (*Memorandum of Objects and Reasons*), has been published in the *Gazette* (as a Bill to be originated in the Assembly), and unless, in the case of a Division of Revenue Bill, County allocation of Revenue Bill, an Appropriation Bill or a Supplementary Appropriation Bill, a Finance Bill, a County Governments Additional Allocations Bill, an Equalization Fund Appropriation Bill a period of seven days, and in the case of any other Bill a period of fourteen days, beginning in each case from the day of such publication, or such shorter period as the House may resolve with respect to the Bill, has ended.

(2) A Committee Bill may be signed and introduced by the Chairperson of the Committee or a Member of the Committee designated by the Committee for that purpose.

(3) Upon publication of a Bill in the *Gazette*, the Clerk shall obtain sufficient copies of the Bill and avail a copy of the Bill to every Member.

The justification is to combine the current Standing Order 122 and Standing Order 120 for logical flow of the provisions and to require publication of a Bill with the names of Co-Sponsors in the Assembly, if any.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Standing Order No.120 as amended agreed to)*

*(Hon. Moses Cheboi relocated to another seat)*

*Standing Order No.121*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I have shifted here because there is space for me to stretch my leg. I am getting a little taller.

*(Laughter)*

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Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 121 be amended by—

(a) deleting paragraph (2) and substituting therefor the following new paragraph—

(2) Pursuant to Article 110(3) of the Constitution, before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.

(b) deleting paragraph (3).

This is a basic amendment, whose justification is to align the provision with Article 110 (3) of the Constitution. It is fairly straightforward.

**Hon. Deputy Chairman:** Is Standing Order 121 on the issue of quorum, Hon. Deputy Speaker? It is to deal with counties.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): We are just reinstating this matter. The Constitution is very clear under Article 110, only that the Senate was misbehaving as usual. The Attorney-General of the Republic of Kenya, as the chief legal advisor of the Government, when we were sending Bills through the Cabinet, should also indicate. He indicates about which Bill concerns counties and which ones do not. I can see the Chair is deleting Section 3 which reads “Pursuant to Article 110(3) of the Constitution, the Speaker of the National Assembly and the Speaker of the Senate may agree on an appropriate framework for jointly resolving the question under paragraph (2).”

I totally support the Chairman. There is nothing to agree. There is no need for a framework. The Constitution is alive and it is speaking. It was an oversight during the 11<sup>th</sup> Parliament when we put Standing Order 121(3). It is good the Chairman has deleted it. There is nothing to resolve. There is no framework. The framework, the beams and the columns have been provided for in the Constitution.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Standing Order No.121 as amended agreed to)*

*Standing Order No.122*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 122.

This is basically to combine the text of this Standing Order with that of Standing Order No.120 for logical flow of the Standing Orders.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Standing Order No.122 deleted)*

*(Standing Order Nos. 123, 124, 125 and 126 agreed to)*

*Standing Order No.127*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 127 be amended—

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

1—

(1A) Save for a Finance Bill, the Speaker may refer various provisions of a Bill proposing to amend more than one statute in its principal provisions to the relevant Departmental Committees in accordance with their mandates

(b) in paragraph (4) by deleting the word “twenty-one” appearing immediately after the words “debate within” and substituting therefor the word “thirty”;

(c) by inserting the following new paragraphs immediately after paragraph

(4)—

(4A) The Speaker may extend the period for public participation under paragraph (4) where various provisions of a Bill proposing to amend more than one statute in its principal provisions are referred to separate Departmental Committees under paragraph (1A).

(4B) Paragraph (4) shall not apply to or in respect of—

(a) an Appropriation Bill, a Supplementary Appropriation Bill, a Finance Bill, a Consolidated Fund Bill, a County Allocation of Revenue Bill, a Division of Revenue Bill, an Equalization Fund Bill and a County Governments Additional Allocations Bill; or,

(b) a Bill to amend the Constitution in respect of its Second and Third Reading.

(d) In paragraph (6) by deleting the words “a Supplementary Appropriation Bill or a Finance Bill” appearing immediately after the words “Appropriation Bill” and substituting therefor the words “or a Supplementary Appropriation Bill”.

The justification is to increase the period for the submission of a Report on a Bill to the House to 60 days for purposes of enhancing public participation.

*(Question of the amendment proposed)*

*(Question, that the words to be left*

*out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Standing Order No.127 as amended agreed to)*

*(Standing Order Nos. 128, 129, 130, 131, 132, 133, 134, 135, 136, 136A, 137, 138 and 139 agreed to)*

*Standing Order No.140*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 140 be amended by inserting the following new paragraph immediately after paragraph (2)—

(2A) A Bill under Standing Order 114A (1) (b) may only be withdrawn with the leave of the Speaker.

The justification is to require that a Member seeks leave of the Speaker before withdrawing a Bill introduced to implement a resolution of the House or recommendation to enact laws in response to a Petition.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, I want to ask Hon. Cheboi if this amendment also affects Government Bills. I think the Leader of the Majority Party, in consultation with the Speaker, can withdraw a Government Bill. There is a likelihood we are forming the next government. So, we must protect our turf.

**Hon. Moses Cheboi** (Kuresoi North, JP): No, it does not. It is very clear that it is about Bills introduced to implement resolutions of the House or recommendations to enact laws in response to petitions.

**Hon. Deputy Chairman:** It is in response to Article 119 of the Constitution, which provides that anybody can petition Parliament to either enact or repeal a law.

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Standing Order No.140 as amended agreed to)*

*(Standing Order No.141 agreed to)*

*Standing Order No.142*



**Hon. Deputy Chairman:** Mover.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 142 and substituting therefor the following new Standing Order—

#### **Concurrence of the other House**

142. When a Bill, other than a Bill which in terms of Article 109 (3) of the Constitution is considered only in the National Assembly, has been passed—

(a) the Member in charge of the Bill shall within seven days notify the Speaker, in writing, of the name of any Member or Members of the Senate that the Member has nominated to co-sponsor the Bill in the Senate; and,

(b) the Clerk shall forward a certified copy of the Bill, signed by the Clerk and endorsed by the Speaker, to the Clerk of the Senate together with a message—

(i) requesting the concurrence of the Senate; and,

(ii) notifying the Senate of the name of any Member or Members of the Senate who has been nominated to co-sponsor the Bill.

This is a very good amendment. I wish I could easily convince Members about it. It is to allow for sponsorship of a National Assembly Bill in the Senate. Many times our Bills fall in the sister House because of lack of interest there. The easier way to handle this matter is for a Member to get a colleague in the Senate to co-sponsor a Bill. Once we are through with considering the Bill, it goes to the Senate and is taken up by a specific Member of the Senate for fast processing.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, this is a very risky amendment. We can pass a Bill in this House and then the co-sponsor in the Senate is bought out or influenced by the people that the Bill touches. Let us not take that route. If you introduce a Bill in this House, you have all the rights for the Senate to discuss it through a Committee. The transmitting message of the Speaker of the National Assembly is very important. If we have to operate like nomads and look for other people, those people may not be available on the day of moving the Bill. If the Bill touches on a certain industry, cartels may buy out the Member to frustrate us. He or she will be under no obligation to move the Bill. So, I ask the Mover not to take us in that direction.

We are respectable Members. We represent constituencies and interests. We research the Bills and put energy and time. Even for you to find a seconder in this House, you must convince a Member and give him or her your notes and yet he is a colleague in this House. What about a Member of the Senate? And you know the way we relate with the Senate. They can even conspire against us. I ask the Mover to withdraw the amendment.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, let me be very clear before other Members speak. I need to clarify something. I am extremely surprised that Members would have an issue with this amendment. First of all, it is not a must. You have a choice.

Remember when there is a Government Bill in the National Assembly, it falls in the hands of the leadership of the Majority Party in the Senate. That is dealt with. Here is a situation where a Member has a critical Bill. For example, consider the Bills that have been sponsored by Hon. Millie Odhiambo. All you need to do is to look for somebody in the other House to help you speed up the process. There is no harm. If you really think you do not need to look for a co-sponsor, it will get there. And whether it falls or not will not be up to you. If you want to partner with a Senator who shares your aspirations, you should do so.

**Hon. Deputy Chairman:** This amendment is merely to expand possibilities. It is not about limiting a Member. Let us hear Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): The amendment says:

“The Member in charge of the Bill shall within seven days notify the Speaker, in writing, of the name of any Member or Members of the Senate that the Member has nominated to co-sponsor the Bill in the Senate.”

So, the requirement is mandatory.

**Hon. Deputy Chairman:** That is if you choose to have co-sponsorship. Otherwise, the Bill will ordinarily be referred to the relevant Committee in the Senate. You could have a colleague in the Senate with whom you have good rapport and you think that if he or she took up your Bill, it would move faster than if it goes to a general Committee. Nevertheless, let us hear from Hon. Charles Kilonzo.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Deputy Chairman, I am concerned with the legalities on a co-sponsored Bill. The people who can introduce Bills in this House are only Members of this House. Will it be legally tenable to say that I am co-sponsoring a Bill in this House with someone who is not a Member of this House? That is where I am lost.

**Hon. Deputy Chairman:** This is a matter that we have discussed in the past and we had almost come to an agreement. I just need to know whether the Senate will amend their Standing Orders to be in accord with ours. That was the only difficulty. Actually, the people who have even greater problems are Senators. Most of the Bills, about 98.5 per cent, of Bills in the Senate are Private Members' Bills. Hon. Duale, we have discussed this matter with the leadership of the Senate and we have always explored this possibility. It happens in some jurisdictions. If you have a colleague whom you can keep calling to find out the progress of your Bill, it is a good thing, just the same way you do here. Many of you come to my office asking about the whereabouts of your Bill. When your Bill gets to the Senate, it should not just be left to a Committee. There should be somebody pushing it for you. He or she is a co-owner of the Bill. The only thing is if the Senate will do the same.

We consider more than 95 per cent of Government Bills. Even when Bills concerning county governments get to the Senate, they start saying they are unable to find enough delegations. Even such Bills have problems. Hon. Deputy Speaker, we had agreed that the Senate should pass a corresponding provision in their Standing Orders, is it not?

**Hon. Moses Cheboi** (Kuresoi North, JP): Yes, Hon. Deputy Chairman. That is the position. We can put this provision in our Standing Orders but whether they do the same or not is not quite our problem. We will have done our bit and we may use the provision. If they agreed to the same provision and we did not have a supporting provision in our Standing Orders, we would be in a difficult place.

The main idea with co-sponsorship is that a Member of the National Assembly sponsors his or her Bill but also looks for a Senator or Senators who may own the Bill in the Senate. But

when it is passed, there will be nothing like co-sponsorship. That will cure Hon. Kilonzo's fear. There will be nothing illegal at all. The Bill will belong to the originator.

**Hon. Deputy Chairman:** Hon. Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Deputy Chairman, I really support this. If I knew, I would have saved my Bill, which I know is going to die in the Senate. I may not use co-sponsorship but use it in another way; that is, co-investment of an interest so that you pursue it together. I would have pulled it through because for two months now, I have been chasing it even with the person I believe is the chair of the committee on health and a friend of mine to push it through. I understand they are not taking it because of personal reasons. I think this is a good thing. If we invest that, I think we can move our Bills quickly because when you struggle with a Bill, you would like to see the outcome and if it dies, it is really frustrating.

I support.

**Hon. Deputy Chairman:** Fortunately, you have now sailed through the other amendment – the one you have passed already. It will just go into some slumber. Hon. Owino, the people of Ndhiwa must bring you back so that you come and resuscitate that Bill.

Hon. Gichimu.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Deputy Chairman. I agree with the last explanation that has been given by the Speaker – that the Bill that comes to Parliament, for example, ought to be sponsored by a Member of the National Assembly so that it would not appear like it is co-sponsored. This is because although the Constitution recognises that Parliament consists of two House, these two Houses are different institutions. So once the Bill is dispensed with in the National Assembly, someone can write to give that authority of co-sponsorship by a person from the Senate. I think that is now very clear to avoid a legal issue when it comes to who has it. Two Members of Parliament, one from the Senate and another from the National Assembly, cannot at the same time participate in a matter.

Thank you.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof, be inserted, put and agreed to)*

*(Standing Order No.142 as amended agreed to)*

*Standing Order No.143*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 143 and substituting therefor the following new Standing Order—

### **Consideration of Bills originating in the Senate**

143. (1) Whenever the Speaker receives a Bill originating in the Senate, the Speaker shall—

(a) cause the fact to be known to the House by way of a Message;

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(b) inform the House of the name of any Member or Members who has been nominated by the sponsor of the Bill to co-sponsor the Bill in the House; and,

(c) cause the Bill to be read a First Time.

(2) Following the First Reading, the Bill shall stand committed to the relevant Committee and be proceeded with in the same manner as a Bill originating in the National Assembly.

Hon. Deputy Chairman, the previous one was a Bill getting out of this House to the Senate. This is now what we expect the Senators to do. We are actually also anticipating that they will also want the same thing. So this is consideration of Bills originating in the Senate and, therefore, allowing co-sponsorship or a Member here showing interest that they want to handle a matter that comes from a particular Senator from the other House. So it is the other way round now.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, you need to guide us here because you have given good guidance since 2013. I have no problem with this amendment but the Constitution talks about origination of Bills – specifically Bills which originate from this House, Bills which can originate from the Senate, Bills which are money Bills and where they should originate from and even where the impeachment of the President and the Deputy President are supposed to originate. A Senator must act legislatively within the confines of the Senate. How does it work for us here if I have a Bill and then the Senator for Garissa consigns me and the Bill is supposed to originate from here? How do we deal with that? Are we not infringing on the Constitution? I think that is what Hon. Charles Kilonzo raised. Can we bring a foreigner or a Senator to even have his name appear on a Bill as a co-sponsor in a House where he has no legislative jurisdiction and powers? That is number one.

Secondly, what we are doing here also needs concurrence of the Senate and amendment to the Standing Orders of the Senate. If the Senate does not amend their Standing Orders, what we are doing will be in vain.

Hon. Deputy Chairman, you need to guide us because if I contest in an election to be a Senator, the moment I am sworn-in, I will have absolutely no constitutional and legislative powers in this House. It is the same for a Member of the National Assembly. How does a Bill that ought to originate only from this House have a Senator as a co-sponsor? The constitutionality of such an arrangement would be in question. This is because the Standing Orders are inferior to the Constitution. The Standing Orders are made from the Constitution. Today I am happy. The Speaker usually sits the longest during a session to amend the Standing Orders. That is the time when the substantive Speaker sits as the Chair of the Committee the longest. Maybe you guide us on the constitutional parameters.

**Hon. Deputy Chairman:** Perhaps the only area where we may have to, which I think is a matter the Speakers would have guided during the entire process of prepublication scrutiny, is where anything goes against the provisions of Article 109 (5). That Article starts by saying that any Bill may originate from either House but money Bills may only originate in the National Assembly. I suspect that is where Hon. Duale may be having some difficulties.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, the Standing Orders cannot be used to amend any legislation or the Constitution. Standing Orders are meant for the

comfort and happiness of the Members of this House to make work easier for them. There is absolutely nothing in these Standing Orders that can be used to change the Constitution. We cannot, by Standing Orders, take any Bill that is supposed to originate from the National Assembly to the Senate but what we are saying... A Member has indicated a specific case. If we had some form of arrangement where we could be able to push, it would make it easier. We are basically trying to make things easier for Members of Parliament. Do not be the ones who make it difficult for yourselves. We cannot at all. Obviously, there are Bills that originate from the Senate. It is a fact. Quite a number of them are here. Quite a number of them fall because we have quite a lot of things to do ourselves. What we are saying is that sometimes we can also be useful even for the other House, just like we expect that they can also be useful to us if we get into a sort of arrangement where things can be done faster. If they do not put anything in the Standing Orders on their end, I do not think we will have lost anything. There are some parts of the Standing Orders that exist but we are not using them. It will be the same thing. If they do not do it and they will not feel it is important, really we would have given it a try and help the legislative process.

**Hon. Deputy Chairman:** In fact, the proposed amendment is actually just adding paragraph (b) only on information, is it not? It is not actually touching on the entire Standing Order as it was previously.

Yes, Hon. Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Deputy Chairman, that is my understanding. In the previous amendment, we opened the door for ourselves but in this one, we are opening the door for them. Should they choose Bills originating from their House, then they can...

**Hon. Deputy Chairman:** The amendment informs Members on consideration of Bills originating in the Senate.

**Hon. Martin Owino** (Ndhiwa, ODM): We are all parliamentarians, Hon. Deputy Chairman. There is no foreigner here.

**Hon. Deputy Chairman:** To the extent that it is information, it does not touch on the issue of origination. Jurisdiction is not affected. This amendment does not touch it.

Hon. Gichimu.

**Hon. Gichimu Githinji** (Gichugu, JP): Hon. Deputy Chairman, the issue of originality is not affected. The Bill comes with an authority for someone to pick it from where it goes next. If it comes here, at least someone is here to pick it up. However, the originality still remains.

**Hon. Deputy Chairman:** Yes. It does not affect it.

*(Question, that the words to be left  
out be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Standing Order No.143 as amended agreed to)*

*Standing Order No.144*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 144 of the Bill be amended in paragraph (c) by inserting the words “and a Schedule of the amendments” immediately after the words “copy of the Bill”.

The justification is to allow transmission to the Senate of a Schedule containing the specific amendments which are made by the House to the Senate Bill for ease of tracking and consideration of the amendments. It is an easy amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.144 as amended agreed to)*

*(Standing Order Nos. 145, 146, 147 and 148 agreed to)*

*Standing Order No. 149*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 149 be amended—

(a) in paragraph (1) by inserting the following new subparagraph immediately after subparagraph (b)—

“(c) agrees with the report of the Committee of the whole House proposing the deletion of all clauses of a Bill originating from the Senate.

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

(6) If the Mediation Committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the Committee is rejected by either House, the Bill is defeated.

(c) by inserting the following new paragraph immediately after paragraph (6) —

(7) The Clerk shall transmit a message to the Senate in respect of a decision of the National Assembly under this Standing Order.

This is basically a housekeeping amendment to align the provisions on mediation with Article 113 of the Constitution.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place)*

*thereof be inserted, put and agreed to)*

*(Hon. Paul Nzengu walked out of the Chamber)*

**Hon. Deputy Chairman:** The Member for Kilome came into the Chamber and found a completely difficult situation that he has not seen before. I thought you would sit a bit so that you could learn what we are considering.

**Hon. Paul Nzengu** (Mwingi North, WDM-K): I am coming back.

**Hon. Deputy Chairman:** If you are coming back to the 13<sup>th</sup> Parliament, you need these Standing Orders. Come and know what is being prepared for the 13<sup>th</sup> Parliament, unless the villagers have told you that they have terminated your contract.

**Hon. Paul Nzengu** (Mwingi North, WDM-K): I am coming back.

**An Hon. Member:** He is not from Kilome Constituency. He is from Hon. Kalonzo's place.

**Hon. Deputy Chairman:** Hon. Nzengu, Member for Mwingi North. Are you coming back?

**Hon. Paul Nzengu** (Mwingi North, WDM-K): Yes.

**Hon. Deputy Chairman:** Come and hear what you will find when you come back. Things will have changed.

*(Standing Order No.149 as amended agreed to)*

*(Standing Order Nos. 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164 and 165 agreed to)*

### *Part XXI*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting the heading to Part XXI and substituting therefor the following new heading—

### **RATIFICATION OF TREATIES**

The amendment inserts a new part on the manner of ratification of treaties by the House.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Part XXI as amended agreed to)*

*Standing Order Nos. 166, 167, 168, 169 and 170*

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**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Orders 166, 167, 168, 169 and 170.

*(Question of the amendment proposed)*

*(Question, that the words to be left out,  
be left out, put and agreed to)*

*(Standing Order Nos. 166, 167, 168, 169 and 170 deleted)*

*Standing Order No.171*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 171(1) be amended—

(a) in paragraph (d) by deleting the words “Majority Party Whip” and substituting therefor the words “Whip of the Majority Party”;

(b) in paragraph (e) by deleting the words “Minority Party Whip” and substituting therefor the words “Whip of the Minority Party”;

(c) by deleting subparagraph (f) and substituting therefor the following new subparagraph—

“(f) nine other Members, who shall be nominated by parliamentary parties and approved by the House at the commencement of every Session, reflecting the relative majorities of the seats held by each of the parliamentary parties in the National Assembly and taking into consideration the interests of parties other than parliamentary parties and independents.”

This amendment increases the number of Members of the House Business Committee (HBC) from nine to 14, to make it efficient and also accommodate varying interests. Remember that there will be quite a number of parties and other interests. So, the expansion will make it efficient. Sometimes, we have problems with quorum and availability of Members. So, when we increase it, it makes it easier for meetings to be transacted.

*(Question of the amendment proposed)*

*Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Standing Order No.171 as amended agreed to)*

*Standing Order No.172*



**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 172(1)(c) be amended by inserting the words “parties other than parliamentary parties and” immediately after the words “interests of”;

The amendment requires the Committee on Selection to take into account interests of parties other than parliamentary parties. There will be small parties. All of them are Members who are elected. Therefore, it will be good to accommodate all their views.

I thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.172 as amended agreed to)*

*Standing Order No. 173*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 173 (1) be amended by inserting the words “parties other than parliamentary parties and independents” immediately after the words “parliamentary parties,”

The justification is the same as in the previous amendment. Hon. Deputy Chairman, this is to require the Committee on Selection to consult parties rather than parliamentary parties, including independents when constituting committees.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.173 as amended agreed to)*

*Standing Order No.174*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 174 be amended—

(a) in paragraph (1) by inserting the following new subparagraph immediately after subparagraph (d)—

“(e) each member is nominated to at least one committee of the House.”

(b) in paragraph (2) by deleting the word “may” appearing immediately after the words “independent Member” and substituting therefor the word “shall”;

(c) by inserting the following new paragraphs immediately after paragraph (2)—

(2A) The Speaker shall, so far as may be practicable, ensure that Members belonging to parties other than parliamentary parties and Independent Members are nominated to serve in Committees.

(2B) The Speaker may decline to approve presentation of a list of committee membership that contravenes this Standing Order to the House Business Committee.

This is just as the previous amendment. It is to require the Committee on Selection and the Hon. Speaker to ensure interest of parties other than parliamentary parties and independents have been taken into account in the allocation of Members to committees. This is so that we do not have problems as we had before with some small parties – one-Member parties and so forth – because they are still representative.

**Hon. Deputy Chairman:** A Good proposal!

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Standing Order No.174 as amended agreed to)*

*(Standing Order No.175 agreed to)*

*Standing Order No.176*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman. I beg to move: THAT, Standing Order 176 be amended—

(a) in paragraph (1) by deleting the word “parliamentary” appearing immediately after the word “A”;

(b) in paragraph (2) by deleting the word “parliamentary” appearing immediately after the word “The”;

(c) insert the following new paragraph immediately after paragraph (3)—

“(4) The Speaker shall discharge any Member who contravenes Standing Order 107A (*Gross disorderly conduct*) or breaches the code of conduct applicable to a Member of Parliament from the Committee of the House responsible for the powers and privileges of the House and the conduct of Members.

The very interesting bit in this amendment is to "empower the Speaker to discharge a Member of the Powers and Privileges Committee who commits gross disorderly conduct." This is basically the equity term. It is a very strong and influential committee, which is supposed to handle

matters of conduct by Members. If the Member of that Committee is not orderly himself, he cannot be trusted and used to judge the rest of the membership.

Therefore, for example look at the Hon. friend of mine (I will not mention his name). He once used whistles in the House. You cannot allow that Member at a particular point in time to preside over others in terms of disciplining them. This is because he himself would not be having clean hands. Therefore, whoever comes to equity must come with clean hands. This also gives the smaller parties an opportunity to also discharge their Members from committees if they are disorderly themselves.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, you know amendments to the Standing Orders is a very important business. That is why you see the Hon. Speaker sitting in the Chair. Therefore, this amendment is very good. Moreover, you cannot be in the Committee that disciplines and is chaired by the Hon. Speaker and then when your party sends you and tells you to misbehave grossly, you forget that you are supposed to discipline other Members.

Hon. Deputy Chairman, you remember that this House rejected the Standards Committee. If we had the Standards Committee in place, there is no way the Hon. Speaker could refer an internal matter to the Ethics and Anti-Corruption Commission (EACC) or to the Director of Criminal Investigations (DCI). However, in this House, it was rejected during the 11<sup>th</sup> Parliament. This also goes to the Hon. Speaker's Panel in future; that, they themselves are supposed to lead by example. They should not also make the House very disorderly. You know, sometimes it happens. They get so overwhelmed that they become part of the chaos. I think they should learn from you that when you see the chaos are at an unprecedented level, you have the opportunity to adjourn the House. There are people who have accused you of adjourning.

Finally, Hon. Deputy Chairman, it is also good for Members to know that there are powers, privileges and immunity they enjoy. I remember during the 10<sup>th</sup> Parliament, Hon. Kilonzo and myself tabled some very sensitive documents here and everyone in the Government denied knowledge of those documents. Hon. Charles Kilonzo and I were summoned by the Departmental Committee on Defence and Foreign Relations. We were having tea. That evening we looked for our legal team from the Legal Department and asked them what the powers, privileges and immunities that we enjoy are. Once we were advised accordingly, we wrote a five-page letter to Hon. Speaker Marende. We told him that the powers we enjoy would only contribute to the documents we have tabled when that Committee tables its Report. Before then, we could not become witnesses for this.

Therefore, it is good for Members to know their powers, privileges and immunities. In fact, this is the highest-ranking committee in charge of discipline. Therefore, next time we should even vet the membership. We should even have added "vetting" and ask whether they have Certificates of Good Conduct, and whether they have previous records of leading demonstrations. This is because the moment you sit in that Committee chaired by the Hon. Speaker, you are supposed to show the best of the best. Even the Hon. Leader of the Majority Party can at times become rowdy because of Government issues. However, it is the Members of that Committee under your chairmanship that must remain sober. I think it is a very good amendment.

I support.

**Hon. Deputy Chairman:** Hon. Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Deputy Chairman, I also support this amendment. In addition, I agree with the vetting idea. There is need for capacity building for those who have been selected. This is because you cannot be in the panel of problem solving when you are a problem yourself. It is an act of oxymoronic so to speak.

Therefore, I support this amendment whole-heartedly.

**Hon. Deputy Chairman:** Hon. Kilonzo, do you want to say something? Very well.

Hon. Shamalla.

**Hon. (Ms.) Jennifer Shamalla** (Nominated, JP): Thank you, Hon. Deputy Chairman. In my considered opinion, this new Standing Order 177A...

**Hon. Deputy Chairman:** Where are you?

**Hon. (Ms.) Jennifer Shamalla** (Nominated, JP): Are we not on the Selection Committee responsible for privileges and conduct of Members?

**Hon. Deputy Chairman:** No, we are not yet there.

**Hon. (Ms.) Jennifer Shamalla** (Nominated, JP): Okay.

*(Question of the amendment proposed)*

*(Question, that the word to be deleted  
be deleted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.176 as amended agreed to)*

#### *Standing Order No.177*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 177 be amended by deleting the word “twenty-three” appearing immediately after the words “not more than” and substituting therefor the word “fifteen”.

This is to reduce the high limit of membership of committees from 23 to 15. It is basically to make committees efficient.

While Hon. Duale was serving as the Leader of the Majority Party, there was a situation which required creation of more positions of membership of committees in order to manage it. This is because the membership of the House had increased from 210 Members to 290 and 47 women representatives to become 350. Therefore, some members could not get slots in committees. We cured this by increasing the number of committees, which will be in another proposal. Therefore, it will be helpful to reduce the numbers to create efficiency. When Members are too many it becomes difficult even for them to talk in committees or make good contributions.

Therefore, that is basically the justification.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Kiarie.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Deputy Chairman. Pardon my voice, it has been a very busy weekend and a busy beginning to the week. This is a proposal I had made from my observation as a first time Member of Parliament. We come here very excited to be in committees in which we can serve and give value. When you get yourself into a committee that has 19 members, the brilliance that you would give to such a committee is limited because your contribution in the committee, even for work that needs to be done by committees that at times require to travel out of the city or even out of the country – which people call “trips” but I see it as work – we end up with some members of a committee never doing some of this work. As the Deputy Speaker has mentioned, there are proposals to have extra committees added in the 13<sup>th</sup> Parliament, one of which will be, as I had proposed, the Debt Management Committee. By adding more committees, we will have fewer members in them and as such they will give value in the committees.

I support this amendment.

**Hon. Deputy Chairman:** Hon. Eseli, did you want to contribute?

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Hon. Deputy Chairman, this is a throwback to what we discussed earlier on – about whether we should stand or wave. I pressed this button some time back. I do not want to contribute on this amendment.

**Hon. Deputy Chairman:** Hon. Kilonzo.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Deputy Chairman, this amendment is very crucial. Committees have been created and some of them are too big. Members have been taken to committees where they do not have interest but just to fill the slots. So, this is a necessary amendment which we should support.

*(Question, that the word to be left  
out be left out, put and agree to)*

*(Question, that the word to be inserted in  
place thereof be inserted, put and agreed to)*

*(Standing Order No.177 as amended agreed to)*

*Standing Order No. 178*

**Hon. Moses Cheboi** (Kuresoi North, JP); Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 178 be amended—

(a) in paragraph (1) by deleting the word “Vice-Chairperson” appearing immediately after the words “Chairperson and” and substituting therefor the words “two Vice-Chairpersons”;

(b) in paragraph (2) by inserting the word “one” immediately after the words “Chairperson and”;

(c) in the opening statement of paragraph (3) by inserting the word “one” immediately after the words “Chairperson and”;

(d) by inserting the following new paragraph immediately after paragraph (3)—

“(4) A Vice-Chairperson of a Committee shall not be eligible to stand for election as a Chairperson or Vice-Chairperson of another Committee.”

This is a very critical amendment. It is increasing the Vice Chairs from one to two to accommodate both sides of the House: the Minority and the Majority.

Hon. Members, there are some Departmental Committees, for example, which oversee very many departments in Government. It is easier sometime to split the departments within the Committee through the Chair of that particular Committee or in the alternative, if the Committee is very busy, some sub-committees can be created headed by the Vice-Chairs. It is basically trying to allow as many Members of the House as possible to participate in leadership of the House.

Secondly and most importantly, for the first time, a Member will not serve in two Committees as Vice-Chair or as Chair. This particular one is as Vice-Chair. So, you can only stand in one particular committee to offer yourself so that as many Members as possible can have a chance to lead committees. In this particular Parliament and previous ones, you would find a Member in two committees and probably chairing them because that is democracy. We are now trying to limit Members to one leadership role so that as many Members as possible can concentrate on the areas they have taken charge of.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, we need to reject this amendment because of two things. One, the House is composed of the Minority and the Majority. So, there is no way we can amend a Standing Order to have a Vice-Chair in the Public Accounts Committee or Public Investments Committee. I am a Member of the Public Investments Committee with Hon. Eseli and Hon. Jessica and sometimes the Chair has discretion. In the absence of the Minority Chair and the Minority Vice-Chair, any Member can act with the permission of the Chair.

On the other hand, we have Departmental Committees which are mainly Majority Party. So, the moment we have Minority Vice-Chairs, there will be conflict even in terms of the structure of the august House.

Hon. Deputy Chairman, more fundamentally, as the Chair of the Parliamentary Service Commission, you are aware that we are already grappling with the issue of the rates of sitting allowances to be paid, as proposed by the Salaries and Remuneration Commission (SRC). So, when we have two Vice-Chairs in each committee, how many Vice-Chairs will we have if we have 30 Committees? The same issue will go back to the SRC. I beg Hon. Cheboi that we should not go in that direction. Let us give it to the Chairman. I know Hon. Martin Owino on a number of times has chaired and moved a report of the Departmental Committee on Health with concurrence of his Chair, Sabina Chege. So, let us not complicate matters. It says that there are Minority-led committees and Majority-led committees. There is even one that the Speaker directed; that when business is intense, like the late Hon. Koinange used to do, the Chairman can have sub-committees even chaired by the Minority like Hon. Kaluma used to even though it is not provided for in the Standing Orders. Those are administrative matters and we do not want to go to that. We have seen the pain that Hon. Naomi Shaban went through to explain the allowance she is increasing for Vice-Chairs and Chairs. If we increase the numbers, we are going to the SRC.

We are with Hon. Cheboi on everything but let us not even debate this one because we are increasing allowances and infringing on the Majority and Minority borderlines.

**Hon. Deputy Chairman:** Hon Kilonzo.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Deputy Chairman, Hon. Duale has put it very well. Rather than put it to vote, I plead with the Mover to withdraw the amendment. In any case, we are cutting down the numbers. If we are cutting the number of Members in committees, we cannot start increasing positions in the fewer numbers which will be there. Also, it is not good practice internationally to have a chair and more than one vice-chair. It is always preferable to have one chair and one vice-chair.

I plead with the Mover to withdraw the amendment.

**Hon. Deputy Chairman:** Hon Owino.

**Hon Martin Owino** (Ndhiwa, ODM): Hon. Deputy Chairman, I know what the Chairman intends to cure but the assumption is that there is no “poison.” If there is poison in those committees, even the Minority Vice-Chair can push through an agenda, which the Majority Vice-Chair may not agree with. That is one of them. The other fact is the money issue that would come in. As we increase these positions, we will have to pay them allowances. Such an eventuality will hit some brick wall.

Lastly, it works well. As Hon. Duale said, I was termed a *de facto* chair but I do not get an allowance. I chaired them and it worked well for the Departmental Committee on Health. With due respect, the Hon. Chair should just withdraw it.

**Hon. Deputy Chairman:** Let us not be worried about how much will be paid because in the other House, everybody is a Chair or a Vice-Chair of a Committee. In fact, you find a Chair who is a Vice-Chair in another committee and vice-versa. It is not the number of people to be paid that is the issue. The issue is usually the quantum.

Mover.

**Hon Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I hear what my colleagues are saying. I will not withdraw this one. I will not. What I will do is to allow them to “kill” it themselves. I will allow them to vote against it because, on having the Minority and the Majority enjoying some semblance of house leadership, we are not talking about chairs. Other than those chairs who are specifically designated to the Minority Party, like for the Public Investments Committee and the Public Accounts Committee, and the independents chairing the Special Fund Accounts Committee, I am talking about first getting an additional Vice Chair and making Parliament a bit more accommodative even to the minorities. Remember, with the new Constitution, we removed the issue of opposition and government—it is now the Majority and the Minority who are still part of the Assembly. I will give you a good example: you might have a Member of the Minority who has very good qualifications. In the Departmental Committee on Justice and Legal Affairs, for example, we have some lawyers of repute in the Minority. You can imagine if there was no handshake, somebody like my good schoolmate, Hon. T. J., would never have had an opportunity to be in a certain Committee.

By the way, Hon. Members, just remember we are not extremely sure who will be in the Minority or Majority. I would want you to remember that what you are throwing out of the window might be of help when you come back next time. Who knows who is going to be in the Minority and who is going to be in the Majority? This is only for efficiency. The only thing is that, you can imagine bringing the entire leadership of Committees, Chairs and Vice Chairs, on one side. By the way, in PIC, I am not sure of PAC, it is alternate—a Chair from the Minority and the Vice Chair from the other side.

This is up to you, Hon. Members. If this does not go through, the next one in which we are designating to preclude Vice Chairs from belonging to the same party will not stand at that point. Deal with this consciously. Hon. Kilonzo, even when you are going to the Senate, because that is where you are headed to, you will find in Senate what you trying to throw out of the door. You will have been estopped. We are creating this for the next Members, that is, those who will come here. This is a good one, Hon. Members. Remember, you had earlier increased the Chairperson's Panel to six, just for efficiency. It is really up to you Members.

I will not withdraw this one. I request not to withdraw this one. Just make your decision.

**Hon. Deputy Chairman:** Let us hear from Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Deputy Chairman, I wanted to concur with Hon. Aden Duale on this, that we withdraw. He says it dilutes the essence of the Majority in a House or in a Chamber. Having looked at it, this specific Standing Order relates to the Committee responsible for privileges and conduct of Members. From what I have observed in the 12<sup>th</sup> Parliament, this can come from both sides—either from the Majority or the Minority. I agree with the Mover on this Standing Order.

**Hon. Deputy Chairman:** We have finished that one. We are in Standing Order 178. Why do we not hear Hon. Wanga there? I will give a chance to all of you. Hon. Wanga, then Hon. Nzengu and Hon. Gichimu.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Deputy Chairman.

This idea might bring disharmony in Committees. Being a Chair of a Committee, I do not think it will serve any useful purpose to have more than one Vice Chair. Maybe the Chair might have rather prepared it just as it is currently. In the event of the absence of the Vice Chair, a senior Member usually assumes the role. It is working very well. This idea of two Vice Chairs, especially from different parties, will create disharmony. In a tense House, you will have too much in limbo because this Vice Chair will say this, another will say that, and the Chair will be working with just one Vice Chair of his party. The other Vice Chair will be disgruntled.

From my experience as Chair with a Vice Chair, I do not see how it can work well. A senior Member emerges in the absence of a Vice Chair. That senior Member is usually from any party. They just emerge as a ranking Member and they will always take some responsibilities.

**Hon. Deputy Chairman:** Hon. Nzengu.

**Hon. Paul Nzengu** (Mwingi North, WDM-K): Thank you, Hon. Deputy Chairman. I rise to support the proposal by the Deputy Speaker.

One of the reasons I support is that it will give an opportunity for those new Members who will be joining Parliament for the first time to also have an opportunity to be in the leadership of the House, noting that positions mostly go to ranking Members of the House.

Two, in my experience in the last five years, we have worked in Committees where Members are drawn from different parties. We have never seen party matters coming in. I do not know why we are reading from different scripts. When it comes to leadership of Committees, the Chairman is the overall boss. The Vice Chair is only a delegated authority of the Chair. Anytime the Chairman is not around, that is the only time the Vice Chair becomes relevant. Otherwise, Chairs control Committees.

I support the amendment.

**Hon. Deputy Chairman:** Hon. Nyenze, did I see your hand up?

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you, Hon. Deputy Chairman.

Let me take this opportunity to say that I support the Mover. It is not about the amount of money which is being spent but service delivery. Even those ranking Members who serve as Vice



Chairs, or hold brief, need to be rewarded with time. Why not just go straight and get two Vice Chairpersons?

I support.

**Hon. Deputy Chairman:** In many jurisdictions—you saw even when Obama became a Senator in the USA, because he was a junior Senator and that was his first time—usually, first termers never head Committees. It is only here in Kenya. Because this Constitution came in the middle of democracy, we did not know what to do with the Senate. Nobody could claim to have any experience of anything other than having been in the National Assembly previously. They went there and started doing the things of the National Assembly. They forgot that they had a specific mandate.

Did you want to say something then we get to you? Let us get Gichimu then we get to you.

**Hon. Gichimu Githinji** (Gichugu, JP): Yes, Deputy Chairman.

While it is a good thing to have as many Members as possible in leadership, I believe the amendment as it is might create a confusion. What happens in a situation where the Chair is not in but the two Vice Chairs are in? Probably, it would have been tidier to rank the Vice Chairs so that we can have the First Vice Chair and the Second Vice Chair. That is so that there is no confusion as to what happens.

**Hon. Deputy Chairman:** They have been ranked but the ranking is in the next amendment, Standing Order 179.

**Hon. Gichimu Githinji** (Gichugu, JP): Very well. Then that is a wonderful amendment. I support it.

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, you know I am not opposing. As our substantive Speaker, you need to guide us. Before the Constitution of 2010, we had the Westminster model of parliamentary system. This Constitution talks about the Minority and the Majority. The heads are the Leader of the Minority Party and the Leader of the Majority Party. Even our Standing Orders are aligned along that line. That is why, even in the number of Members of PAC and PIC, the Minority has an extra person to make sure the Majority does not use its numbers to influence the decisions of that Committee.

I think we are going to alter the principle of the legislature in Kenya as a presidential system. The second thing is what Hon. Gladys Wanga has said. Right now we have a Vice-Chairperson. Leadership is very critical. It is always good for the Chairperson and Vice-Chairperson to work together. We do not mind if a member of a Committee dissents with its report, but it will be very sad for a Vice-Chairperson to dissent. Whoever will be in the opposition will refuse the position of Vice-Chairperson. For example, I sit on the Public Accounts Committee. In the absence of Hon. Jessica Mbalu, members pick me to chair the Committee as a ranking Member. If I am not there, or if he comes early, Hon. Eseli is picked because he is serving his third term and is the Deputy Minority Whip.

This amendment will create chaos. We are creating two centres of power from two different political formations. I really want you to guide us. This is part of the discussion and we do not want to just put the Question and then the first agenda of the 13<sup>th</sup> Parliament will be to amend the same Standing Order. How do you have many Vice-Chairpersons in Minority-led and Majority-led Committees? Also remember the issues raised by the Salaries and Remuneration Commission. Members say there is no money. Once you are elected as a Vice-Chairperson, you will be entitled to allowances. Hon. Martin, every day you chair a Committee. You have no recourse to get paid

because you are not a substantive Vice-Chairperson, but the moment you are elected a Vice-Chairperson, the story of money comes in.

**Hon. Deputy Chairman:** You know already there are payment arrangements for a Chairperson and a Vice-Chairperson. The second Vice-Chairperson might just be somebody who sits without pay. I can see some difficulty in administration. The SRC acknowledges that each Committee has a Chairperson and a Vice-Chairperson. Since we are creating more Committees, it should take care of this to avoid confusion. I know we are creating quite a number of new Committees. Maybe that could address those problems.

Hon. Charles Kilonzo.

**Hon. Charles Kilonzo** (Yatta, Independent): You have given us a solution, more so to the Mover who was not there when you were explaining. Since we are creating more Committees, we should not have the urge of creating more positions of Vice-Chairperson. I wish to go by your proposal, which the Mover should understand. Since we are creating more Committees, let us do away with the business of second Vice-Chairpersons.

**Hon. Deputy Chairman:** Since the Mover says it is not his proposal but the Committee's proposal, let me put the Question.

*(Question, that the word to be left out be left out, put and negatived)*

*(Standing Order No. 178 agreed to)*

*Standing Order No. 179*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 179 be amended by inserting the following new paragraph immediately after paragraph (13)—

(14) The Chairperson of the Liaison Committee shall, by way of a Statement, notify the House of the duly elected Chairperson and Vice-Chairperson of a Committee when the House next sits after the conduct of an election.

I have moved the amendment in an amended form to remove the part that deals with election of First and Second Vice-Chairpersons because it has been rejected in the previous amendment. The specific part (1) that I am amending is the insertion of a paragraph mandating the Chairperson of the Liaison Committee to notify the House of election of a Chairperson and Vice-Chairperson of a Committee.

**Hon. Deputy Chairman:** So you have withdrawn paragraphs (a) and (b) of the amendment but retained paragraph (c)?

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Standing Order No.179 as amended agreed to)*

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*(Standing Order No.180 agreed to)*

*Standing Order No.181*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, Standing Order 181 be amended in paragraph (2) by deleting the words “through the email addresses of a Member” appearing immediately after the word “circulation” and substituting therefor the words “by electronic means to a Member’s official communication address or telephone number”.

The justification is to incorporate text messages and alerts through electronic means as modes of notifying Members of agenda of a meeting. Some of these methods are being used right now. Remember we have the Bunge Forum and many other platforms. We want to regularise the methods so that Members may know that when they receive a message through a particular method, the message is from the National Assembly.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Standing Order No. 181 as amended agreed to)*

*(Standing Order No. 182 agreed to)*

*Standing Order No. 183*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 183 and substituting therefor the following new Standing Order—

### **Subcommittees**

183. (1) A Committee may establish such subcommittees as it may consider necessary for the proper discharge of its functions and prescribe a quorum of not less than three Members.

(2) Unless a quorum is achieved within thirty minutes of the appointed time, the meeting of a subcommittee shall stand adjourned to such further time or days as its chairperson may appoint.

(3) The work of a subcommittee shall be subject to the direction of the Committee and a subcommittee shall regularly report to the committee on any tasks assigned to it.

Hon. Deputy Chairman, the justification is to regulate the formation, membership, quorum and responsibilities of sub-committees of committees. By the way, that one which failed was a proposal by Hon. Duale and then he shot it himself. It is okay. It is part of legislation and cleaning up of some of these things. You give a good suggestion today and tomorrow you think it is not very good. This one is because of the issue of responsibilities of sub-committees.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, you know the people of Garissa are watching me and it is an election time. They might think I am dishonest. First, I want to confirm that was my proposal to the Committee but you know it is only a fool who does not change his mind. I have reflected on that and I told the Chair that I had no bad intentions. I realised I made a mistake but I support Standing Order No. 183.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Standing Order No. 183 as amended agreed to)*

*(Standing Order Nos. 184, 185, 186 and 187 agreed to)*

*Standing Order No. 188*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to withdraw that particular one because looking at it on the face value, it is actually accommodating both Vice-Chairpersons, including the Second Chairperson. I do not think we really need to progress with this one although I am trying to consult to see if there is any other issue. We are withdrawing that one.

**Hon. Deputy Chairman:** That one stands withdrawn.

*(Proposed amendment to Standing Order No. 188 withdrawn)*

*(Standing Order No. 188 agreed to)*

*(Standing Order Nos. 189, 190, 191, 191A and 192 agreed to)*

*Standing Order No. 193*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 193 be amended—

(a) in paragraph (2) by inserting the words “signed by the members” immediately after the words “written notice”;

(b) by inserting the following new paragraph immediately after paragraph (2)—  
“(2A) Upon receipt of the written notice under paragraph (2) by the Clerk, any signature appended to the notice shall not be withdrawn”.

This is to require a Member intending to remove a Chairperson of a committee to give written notice and to preclude any Member who has signed the notice in support from withdrawing their signatures. Sometime there are claims that occur within committees. When you make up your mind that you want to remove your Chair, you should have made up your mind completely so that you do not withdraw halfway and yet you have made the other Members fill. A certain threshold would have been achieved which you can use for withdrawal of a signature to stop the proceedings. So we are trying just to make committees orderly. We are also making it mandatory to whoever wants to remove a Chair to give written notice citing whatever reasons or why they want him or her removed. It is to make it a bit more serious.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, we must protect Chairs in the sense that even if they are removed, it must be through a fair and transparent system. When I was the Leader of the Majority Party, and you are aware because you were our Speaker, Chairs were removed at the bar or in some other places. You see a Chair coming to your office sweating saying they have already collected 11 signatures. It was a very sad thing. It is not good. I really thank the Chair of the Committee that even for the removal of a Chair, a notice must be given and grounds given so that even the public will know this Chair violated and committed certain crimes for his removal. However, you just hear at the lounge or at the corridor somebody is going round with a foolscap collecting signatures. That is in fact what led you to make a communication even on the removal of a Cabinet Secretary or a public official. You remember the Waiguru case and many other cases. We must protect them. Chairs are part of the leadership. They are very important members of our House. We are not saying they cannot be removed. There are even grounds of removal of the Speaker. Even Chairs must be given that due diligence and fair administrative justice. I support this very good amendment to our Standing Orders.

**Hon. Deputy Chairman:** I want to confirm what Hon. Duale has just said. I am aware of a Chair who had to cut short his trip and he is a golfer when the House was supposed to be at the East African Games. They had to fly back because signatures were being collected in Burundi.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No. 193 as amended agreed to)*

*(Standing Order Nos. 194, 195, 196, 197 and 198 agreed to)*

*Standing Order No. 199*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:  
THAT, Standing Order 199 be amended—

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- (a) in paragraph (5) by deleting the word “report” appearing immediately after the word “dissenting” and substituting therefor the word “opinion”;
- (b) in paragraph (6) by deleting the word “report” appearing immediately after the word “minority” and substituting therefor the word “opinion”

This is basically to substitute references to a minority report with minority opinion. It is a more acceptable language even internationally and in other legislative jurisdictions.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, the Chairman needs to tell us the difference between the words “dissenting” and “opinion” in report writing. When a committee writes a report, the majority of Members give binding recommendations. They say that the House resolves something. An opinion cannot be of the colleagues who disagree with the Report.

**Hon. Moses Cheboi** (Kuresoi North, JP): It can be.

**Hon. Aden Duale** (Garissa Township, JP): No. It cannot be an opinion. It is a dissenting minority report with evidence. Hon. Chair can explain. 'Dissenting' is a stronger word than 'opinion'.

**Hon. Moses Cheboi** (Kuresoi North, JP): These are two things: minority report and minority opinions. A report is written by a Committee. Look at every other Parliament elsewhere in the world. We do not have two reports. You can have one report of the committee with some Members giving a dissenting opinion. So, it becomes a minority opinion. You cannot have two reports. Therefore, it will mean that you will come to the House to debate two Reports. You will debate the report of the committee and then those Members who have an opposing opinion will be given an opportunity to share what they have to say within the same Report.

**Hon. Deputy Chairman:** Very well. Hon. Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): That is true. I agree with the Chair. We do not have dissenting reports in all jurisdictions but dissenting opinions of the minority.

**Hon. Deputy Chairman:** It is a neater way in that what will be debated will be the entire report and there will be those dissenting opinions. The plenary now is at liberty to choose either to agree with the minority or dissenting opinions. That is not a report.

Just look at where you have majority judgements. The five judges read all their judgements. They have the same evidence. Based on the same facts and law, three judges will give the majority opinion and the two judges or one will give a dissent opinion. It is actually *obiter dictum*. It is not the one that is followed. However, anybody in future who wishes to go and read the judgement will still see, given these set of circumstances, what made these people form this opinion. It is good for the House.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

I only hope that some of these Hon. Chairs who have walked out know that they passed a Motion that said that we would sit until the business appearing as Order No. 17 is concluded. I hope that they have not disappeared. They can be in that place where Hon. Chairs are removed from.

*(Laughter)*

Next Standing Order.

*(Standing Order No. 199 as amended agreed to)*

*Standing Order No. 200*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:  
THAT, Standing Order No. 200 be amended in paragraph (1) by deleting the words “half yearly” appearing immediately after the word “submit” and substituting therefor the word “quarterly”;

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.200 as amended agreed to)*

*Standing Order No. 200A*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, Standing Order 200A be amended by deleting paragraph (1) and substituting therefor the following new paragraph—

“(1) The Chairperson of a committee shall table an exit report to the Assembly at the expiry of the term of the committee outlining—

- (a) the work and any achievements of the committee during the term;
- (b) any outstanding matter under consideration by the committee together with reasons for its inability to conclude the matter before the expiry of its term”

This is to require each committee to table an exit report at the end of its term and give quarterly progress reports. This one is for the exit reports.

*(Question for the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No. 200A as amended agreed to)*

*(Standing OrderNos. 201, 202, 202A and 203 agreed to)*

*Standing Order No.204*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I am actually admiring how you are surviving because I had to take a quick break myself.

*(Laughter)*

You know I am a few years younger than yourself. There must be something you do that I do not do. I had to seek an SOS from my colleague, Hon. Omulele and I had to come back on this Standing Order 204 because it still deals with the issue of Vice Chairs. Therefore, we will leave the other bit that deals with First and Second Vice Chairpersons.

Therefore, let me move:

THAT, Standing Order 204 be amended—

(a) in paragraph (1) by deleting the words “twenty two” appearing immediately after the words “not more than” and substituting therefor the word “fifteen”;

“(1A) the Committee shall elect its Second Vice-Chairperson from among its members.”

(a) by deleting paragraph (3) and substituting therefor the following new paragraph—

“(3) Leader of the Majority Party and the Leader of the Minority Party shall be the First Vice-Chairperson and Second Vice-Chairperson of the committee.

(c) by inserting the following new paragraph immediately after paragraph (5)—

“(6) Where the Minority Party is the party forming the National Government, the Leader of the Minority Party and the Leader of the Majority Party shall be the First Vice-Chairperson and the Second Vice-Chairperson of the committee.”

That is basically (a), is it not?

Hon. Deputy Chairman, I want to clarify that it would end at (a). Anything down after that (a) goes, including (1A.)

This is basically about numbers of committees. It is to reduce membership of Committee on Appointments from 22 to 21 and to provide the Hon. Leader of the Majority Party and the Hon. Leader of the Minority Party as First and Second Vice Chairperson respectively.



I really think that we could retain it. This is specific to this Committee because it is basically an issue of appointment and it is a very critical thing. So, if Members can allow this on this particular one, we can have the Hon. Leader of the Majority Party and the Hon. Leader of the Minority Party as the First and Second Chairpersons of the Committee.

Hon. Deputy Chairman, after consultation, we are retaining only that particular part which deals with numbers, reducing from 22 to 21. That is the only one we retain. The rest fall including appointment of offices because it is a Committee.

**Hon. Deputy Chairman:** To 15?

**Hon. Moses Cheboi** (Kuresoi North, JP): Yes, to 15. We can leave it there.

**Hon. Deputy Chairman:** Then withdraw the rest.

**Hon. Moses Chaboi** (Kuresoi North, JP): I withdraw all the rest, other than the bit that deals with the numbers.

Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 204 be amended—

(a) in paragraph (1) by deleting the words “twenty two” appearing immediately after the words not more than” and substituting therefor the word “fifteen”;

*(Part (1A), paragraph (b) and paragraph (c) withdrawn)*

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Standing Order No.204 as amended agreed to)*

*Standing Order No.205*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Chairman, I beg to move:

THAT, Standing Order 205 be amended—

(a) in paragraph (3) by inserting the words “elected from among members of the Committee belonging to parties not forming the national government,” immediately after the word “Chairperson”.

(b) by deleting paragraph (5) and substituting therefor the following new paragraph—

“(5) The Public Accounts Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

The Chairman of the Public Accounts Committee is from the Minority Party as is usual and now we provide that the Committee constituted after a general election should serve for three years. The subsequent Committee should serve for two years rather than reconstituting them every year. It will help in terms of institutional memory and also make the Members who are now used

to the ropes to continue with their work and give us a good job as it is being done by this Committee now.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Question, that the words to be left  
out be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed to)*

*(Standing Order No.205 as amended agreed to)*

*Standing Order No.205A*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 205A and substituting therefor the following new Standing Order—

### **Special Funds Accounts Committee**

205A. (1) There shall be a select committee to be designated the Special Funds Accounts Committee.

(2) The Committee shall examine the reports of the Auditor General on—

(a) Funds established by statute or by subsidiary legislation, except Funds under Standing Order 205B (*Decentralized Funds Accounts Committee*);

(b) the Equalization Fund;

(c) the Equalization Fund Advisory Board; and

(d) the Political Parties Fund.

(3) The Committee shall consist of a Chairperson who shall, so far as is practicable, be an Independent, and not more than fourteen other members.

(4) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(5) The Special Funds Accounts Committee shall not examine matters of policy or day-to-day administration of the special funds.

(6) The Speaker shall, at the beginning of every term of Parliament or at such other time as may be appropriate, issue a schedule specifying the Funds falling within the mandate of the Committee.

(7) The Special Funds Accounts Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

This is basically to split the mandate of the Committee and limit it to examination of audit reports of specific funds established by statute or subsidiary legislation. It is also to require the Speaker to issue a schedule specifying funds falling within the mandate of the Committee for guidance of the House and also to provide for the Committee constituted after a general election to serve for three and two years after that. Basically, because this Committee is being split like others which will be split thereafter, it is the role of the Speaker to guide on the specific funds to be handled by the Committee.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.205A as amended agreed to)*

*Standing Order No. 206*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, the Standing Orders be amended by deleting Standing Order 206 and substituting therefor the following new Standing Order—

**Public Investments Committee on Governance and Education**

206. (1) There shall be a select committee to be designated the Public Investments Committee on Governance and Education.

(2) The Committee shall, with regard to the education, defence, governance, justice and law and order sectors—

- (a) examine the reports and accounts of public investments;
- (b) examine the reports, if any, of the Auditor General on public investments;  
and
- (c) examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

(3) Despite paragraph (2), the Committee shall not examine any of the following—

- (a) matters of major Government policy as distinct from business or commercial functions of the public investments;
- (b) matters of day-to-day administration; and,
- (c) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.

(4) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging to parties not forming the national government, and not more than fourteen other members.

(5) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(6) The Speaker shall, at the beginning of every term of Parliament or at such other time as may be appropriate, issue a schedule specifying the state corporations falling within the mandate of the Committee.

(7) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

(8) This Standing Order lapses at the end of each term of the Assembly.

(9) The House may by resolution suspend paragraph (8).

This is the one dealing with PIC to be split into three by establishing a specific Committee to examine the audit reports of State Corporations in the education, defence, governance, justice, and law and order sections. It is to require the Speaker to issue a schedule of specific State Corporations falling within the mandate of each Committee for the guidance of the House; to reserve the chairmanship of the Committees to the Minority Party; to provide a sunset provision requiring the House to renew the Committee at the end of every term of Parliament and to provide for the Committee constituted after a general election to serve for three years and the subsequent Committee to serve for two years.

The very critical bit here is to provide a sunset clause. The reason this is being created and the justification this Committee is being split is so that the Committee can be up to date. If they can be up to date within even five years or less, it stops there. It can disappear after some time once it is up to date like what it is with PAC. That was the justification for not splitting PAC. Its works are moving fairly well.

**Hon. Deputy Chairman:** I think Members will also know that there are far too many parastatals. It is not possible for one Committee to handle all of them.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.206 as amended agreed to)*

*(Standing Order No.207 agreed to)*

*Standing Order No.208*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

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- THAT, Standing Order 208 be amended—
- (a) in paragraph (2) by deleting the word “seventeen” and substituting therefor the word “thirteen”;
  - (b) by inserting the following new paragraph immediately after paragraph (6)—

“(7) The Procedure and House Rules Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

This is to reduce the membership of the Procedure and House Rules Committee to 21 and to provide for the Committee constituted after a general election to serve for three years and the subsequent Committee to serve for two years like other previous committees that we have amended.

*(Hon. Aden Duale spoke off the record)*

**Hon. Deputy Chairman:** What is it you are saying, 13?

**Hon. Moses Cheboi** (Kuresoi North, JP): Sorry, Hon. Deputy Chairman. You know, I am not used to the long haul. So, sometimes my eyes, in my native language, run.

*(Laughter)*

*Ruayeghonye*, which means the eyes run. So, let me restart afresh. I am saying that the basic issue of this Committee is to reduce the Procedure and House Rules Committee’s membership. Just a minute. There is a problem here. Just allow me a minute to consult.

*(Hon. Moses Cheboi consulted the Clerks-at-the-Table)*

I was actually right, Hon. Deputy Chairman. It is that there are Members who are Members of this Committee by virtue of their offices, for example, Members of the Chairperson’s Panel, the Speaker himself, and the Deputy Speaker. However, the others have been reduced. Once that is done, it will come to the number which I indicated there. We are reducing the other Members.

**Hon. Deputy Chairman:** That is understood.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No. 208 as amended agreed to)*

*Standing Order No. 209*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order No. 209 be amended—

(a) in paragraph (4) by deleting the word “twenty-two” and substituting therefor the word “twenty”;

(b) by inserting the following new paragraph immediately after paragraph (5)—

“(6) The Committee on Implementation constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

The justification is to reduce the membership of the Committee on Implementation to 20 Members. There are 22 Members currently.

**Hon. Deputy Chairman:** Currently, the Committee on Implementation consists of a Chairperson and not more than 22 Members. So, they are 23 Members.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, we are reducing the number of the Members by 3.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No. 209 as amended agreed to)*

*Standing Order No. 210*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order No. 210 be amended—

(a) in paragraph (1A) by deleting the words “twenty-two” and substituting therefor the word “twenty”;

(b) by inserting the following new paragraphs immediately after paragraph (5)—

“(5A) The Committee shall, on a quarterly basis, report to the House on the list of statutory instruments approved under paragraph (4)(a).

(5B) Where the House annuls part or an entire statutory instrument, the regulation making authority shall notify the Clerk and submit evidence of the publication of the annulment within twenty-one days.

(5C) The Clerk shall record information received under paragraph (5B) in the register of Statutory Instruments and refer it to the Committee.

(5D) The Committee on Delegated Legislation constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

The amendment streamlines the processing of statutory instruments in this House.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No. 210 as amended agreed to)*

*(Standing Order No. 211 agreed to)*

*Standing Order No. 212*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order No. 212 be amended—

(a) in paragraph (3) by deleting the word “twenty-two” and substituting therefor the word “twenty”;

(b) by inserting the following new paragraph immediately after paragraph (3)—

“(4) The Committee on Regional Integration constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

The amendment reduces Members of the Committee on Regional Integration to 20 like the previous Committee.

*Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No. 212 as amended agreed to)*

*(Standing Order Nos. 212A and 212B agreed to)*

*Standing Order No.212 C*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, Standing Order 212C be amended—

(a) in paragraph (2) by deleting the word “twenty-two” and substituting therefor the word “twenty”;

(b) by inserting the following new paragraph immediately after paragraph (3)—

“(4) The Committee on National Cohesion and Equal Opportunity constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

Again, like the previous few, it aims to reduce the membership of the Committee on National Cohesion and Equal Opportunity to 21 Members.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.212C as amended agreed to)*

*Standing Order No.212D*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 212D be amended in paragraph (2) by deleting the word “twenty-two” and substituting therefor the word “twenty”;

That is again to reduce membership of the Committee on Parliamentary Broadcasting and Library to 20 Members.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*



*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.212D as amended agreed to)*

*Standing Order No.213*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 213(3) be amended by inserting the words “, parties other than Parliamentary parties and Independents,” immediately after the words “parliamentary parties,”;

This is to require the Committee on Selection to take into account interest of parties other than Parliamentary parties and Independents when constituting joint committees of Parliament.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.213 as amended agreed to)*

*(Standing Order Nos. 214 and 215 agreed to)*

*Standing Order No.216*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, Standing Order 216 be amended—

(a) in paragraph (1)(a) by inserting the words “, parties other than parliamentary parties and Independents,” immediately after the words “parliamentary parties,”;

(b) in paragraph (1)(b) by deleting the word “nineteen” appearing immediately after the word “exceed” and substituting therefor the word “fifteen”;

(c) in paragraph (5) by—

(i) inserting the following new sub-paragraph immediately after sub-paragraph

(b) —

(ba) on quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;

(ii) deleting subparagraph (h).

This is basically to cap membership of Departmental Committees to 15. Remember, the Departmental Committees have increased by 5. Therefore, we are capping them at 15. It is also to require the Departmental Committees to monitor the implementation of budget on quarterly basis. This is a new one. Therefore, they will monitor.

**Hon. Deputy Chairman:** Very well.

*(Question of the amendment proposed)*

*Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.216 as amended agreed to)*

*(Standing OrderNos. 217, 218, 219, 220, 221 and 222 agreed to)*

*Standing Order No.223*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Chairman, I beg to move:

THAT, Standing Order 223 be amended—

(a) in paragraph (i) by deleting the word “addresses” appearing immediately after the word “names” and substituting therefor the words “contact information”;

(b) by renumbering the existing provision as paragraph (1);

(c) by inserting the following new paragraph immediately after paragraph (1)—  
“(2) Despite paragraph (1)(k), a Petitioner shall—

(a) attach evidence of the efforts made to have the matters raised in the petition addressed by a relevant body for purposes of paragraph

(1)(f); and

(b) where the matters are pending before court, attach evidence of the court proceedings or judgment for purposes of paragraph (1)(g).”

This is to require petitioners to attach evidence of their efforts to have a matter addressed by other relevant bodies and any court pleadings in matters that are pending in court. This is so that we can reduce frivolous Petitions that are brought to the House that could have been handled by other institutions.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, I support the amendment. There must be a serious threshold when it comes to Petitions. Sometimes it is not even frivolous people, but the agents of the State itself when they are not happy with a decision on independent institutions like the Office of the Auditor-General or the Ethics and Anti-Corruption Commission. Hon. Deputy Chairman you are aware about Petitions. We must set the bar very high. That is what this amendment seeks to do: that the Petition that will be brought to this House must either be in the best interest of the people or has very serious constitutional grounds for the removal of an independent office holder.

I support.

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Standing Order No.223 as amended agreed to)*

*Standing Order No.224*

**Hon. Moses Cheboi** (Kuresoi North, JP); Hon. Chairman, I beg to move:  
THAT, the Standing Orders be amended by deleting Standing Order 224.  
This is a basic one to allow the House to debate Petitions.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Standing Order No.224 deleted)*

*(Standing Order Nos.225 and 226 agreed to)*

*Standing Order No.227*

**Hon. Moses Cheboi** (Kuresoi North, JP); Hon. Chairman, I beg to move:  
THAT, Standing Order 227 be amended—  
(a) in paragraph (1) by deleting the words “relevant Departmental” appearing immediately after the words “to the” and substituting therefor the words “Public Petitions”;  
(b) by deleting paragraph (2) and substituting therefor the following new paragraph—  
(2) Whenever a Petition is committed to the Public Petitions Committee, the Committee shall, within ninety calendar days of committal, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House.  
(c) inserting the following new paragraph immediately after paragraph (2)—  
(2A) The Public Petitions Committee may recommend that a report on a petition be considered for debate in the House.

This is to require all Petitions to be referred to the Public Petitions Committee and to increase the period for consideration of Petitions from 60 to 90 days. This is from the experience we have had in this Parliament where many Chairs have been coming to you, Hon. Deputy Chairman, to ask for extension.

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*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Standing Order No.227 as amended agreed to)*

*(Standing Order Nos. 228, 229, 230 and 231 agreed to)*

### *Standing Order 232*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, Standing Order 232 be amended—

- (a) in paragraph (1) by deleting the words “and a Debt Management Strategy” appearing immediately after the word “Statement”;
- (b) by deleting paragraph (4);
- (c) by deleting paragraph (6);
- (d) by deleting paragraph (8)(c);
- (e) in paragraph (9) by—
  - (i) deleting the word “among” appearing immediately after the words “vertical allocation of resources” and substituting therefor the word “between”;
  - (ii) deleting the words “and where necessary” appearing immediately after the words “the National Government, the Judiciary and Parliament”.

Basically, it is to remove references to the Debt Management Strategy which is proposed to be examined by the Committee on Public Debt and Privatisation so that it is removed from there.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Is it Hon. Kiarie or Hon. Duale who wanted to say something? Hon. Kiarie.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Deputy Chairman. I had made a proposal that we have a Debt Committee. We all understand the situation this country finds itself in. When I was contributing to this, I remember I said that this country ought to understand a debt problem is a budgeting problem. This being a budgeting House, we would move better in advising if we had a Committee specifically dedicated to checking public debt. That is even when we are budgeting through the Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning, we would be giving the right information. I think this is a Committee that we as a House need.

**Hon. Deputy Chairman:** This amendment speaks to the mandate of that Committee so that part of it remains with the Budget and Appropriations Committee and this one deals with issues of policy. Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): You are very right. I was wondering why the Chair was deleting paragraphs 4, 6 and 8. All these are debt management strategies. I am sure he is moving them to the Committee on Public Debt and Privatisation. The problem of debt, let us face it, is this House and more of the Budget and Appropriations Committee. The Cabinet Secretary brings a Budget that has a hole or a financial gap of billions of shillings close to a trillion shillings and we agree with him. Once we agree with him, he has no choice. You have sent him to a supermarket with less money. So, he has to find somebody on the road to borrow from so that he buys the goods and services. I think it is good for Parliament, as the people's representative, to have a Committee that deals with debt. This is one of the reforms in the Standing Orders that will also be attributed to you, Hon. Speaker.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Standing Order No.232 as amended agreed to)*

*(Standing Order Nos. 233 and 234 agreed to)*

*Standing Order No.235*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, Standing Order 235 be amended by inserting the following new paragraph immediately after paragraph (5) —

(6) Where the Committee recommends any changes, variations or re-allocations in the Estimates, the Budget and Appropriations Committee shall include in its recommendations under paragraph (5) an itemized schedule outlining the proposed changes, variations or re-allocations specific to each Vote, Sub-Vote, Program, Project, Output or Target.

It is to ensure sufficient information is provided to the House during consideration of Estimates in the Committee of Supply. This will aid Members to make informed decisions during consideration of every Vote and Programme in the Committee of Supply.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.235 as amended agreed to)*

*(Standing Order Nos. 236, 237, 239, 240 and 240A agreed to)*

*Standing Order 240B*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, Standing Order 240B be amended by inserting the following new paragraphs immediately after paragraph (4)—

(5) Upon passage of the Appropriations Bill, the Clerk shall, as soon as practicable, certify in writing any changes made to a Vote or a programme and indicate any reallocations, increases, or decreases made by the National Assembly to a vote, sub-vote, programme, project, output or target to facilitate the Cabinet Secretary responsible for finance to republish the final approved Estimates.

(6) Following the enactment of the Appropriations Act, the Budget and Appropriations Committee shall ensure that any reallocations, increases, or decreases made by the National Assembly to the Estimates with respect to any vote, sub-vote, programme, project, output or target are incorporated in the republished final approved budget books.

This is to improve transparency in budgeting and entrench the exercise of power to review the Estimates. The amendment seeks to reflect changes made by the House during approval of the Appropriation Bill by capturing the said changes in a detailed way at the levels of vote, programme, project, output and target. Apart from being a record of decisions of this House, this information will promptly communicate to the National Treasury to ensure that changes made by the House are reflected in the actual implementation of the Budget by the Executive.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.240B as amended agreed to)*

*(Standing Order No.242 agreed to)*

*Standing Order No.243*

**Hon. Moses Cheboi** (Kuresoi North, JP): I beg to move:

THAT, Standing Order 243 be amended —

(a) in paragraph (2) by inserting the following new subparagraphs immediately after subparagraph (b)—

(c) justifications and necessary financial documents as evidence for the money spent;

(d) separate schedules for expenditure made under Article 223 of the Constitution and any ordinary re-allocations made to any vote;

(e) a schedule indicating the money spent and the purpose for which it was spent under each Vote, Programme and Project; and

(f) the date when the first withdrawal of the said money was made.

(b) by inserting the following new paragraphs immediately after paragraph (3) —

(3A) The report of the Budget and Appropriations Committee to the House on Supplementary Estimates shall—

(a) include an examination of the compliance of the proposed Supplementary Estimates with—

(i) the conditions set out in Article 223 of the Constitution and any other law; and

(ii) the principles and values of public finance under Article 201 of the Constitution;

(b) only contain provisions for money already withdrawn and spent by the National Government in accordance with Article 223 of the Constitution; and

(c) contain separate schedules for expenditure made under Article 223 of the Constitution and any ordinary re-allocations made to any vote and a schedule of any financial and policy resolutions.

(3B) Paragraph (3A) shall apply to a Departmental Committee examining the Supplementary Estimates and making recommendations to the Budget and Appropriations Committee under Standing Order 243(3).

(3C) The Clerk shall maintain a specific register for noting any requests for approvals made by the Cabinet Secretary responsible for finance pursuant to Article 223 of the Constitution and facilitate the timely tabling of all such requests.

This is to prescribe the procedure applicable in seeking the approval of Parliament with regard to money already withdrawn and spent by the national government pursuant to Article 223 of the Constitution.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, this is a very important amendment. If there is an Article of the Constitution that has been abused by the national government, more so the Cabinet Secretary for Treasury, it is Article 223. The amendment says for the Cabinet Secretary to spend money, he must provide justification and present to the House financial documents as evidence of monies spent and separate schedules different from the one in the Supplementary Estimates, the date when the first withdrawal of the said money was made and the votes and programmes funded. All these were not being provided. As the people's representatives, we must ensure that the Cabinet Secretary for Treasury does not spend money against provisions of Article 223 of the Constitution. We must be very careful that public servants and the Cabinet Secretary for the National Treasury do not spend money using Article 223 and if that happens, it should only be in case of an emergency or something that has happened and it has not been budgeted for. In the last two budgets, it was just using Article 223 to, what I can call, loot and steal public resources. I think this safeguard in Standing Order No. 243 will help the 13<sup>th</sup> Parliament. I am sure some of us will be here to implement it.

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**Hon. Deputy Chairman:** I think Hon. Wangwe has just walked in. Please, let us hear his voice.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Chairman. It is very true. As a Member of the Budget and Appropriations Committee, it is very difficult to get these reports from the Cabinet Secretary especially on matters touching on Article 223. By us putting this in the Standing Orders, it is a great solution and this should be voted very fast so that those who will come back in the 13<sup>th</sup> Parliament will have it easy to get some information from the Cabinet Secretary especially having it enshrined in the Standing Orders.

**Hon. Deputy Chairman:** And when he does not provide, you say, “return to sender”, is it not?

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Deputy Chairman, I just want to support also because most of our supplementary budgets have been made to be sanitisers of the abuse of Article 223. I think this is good and will bring some sanity in our budget as well.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No. 243 as amended agreed to)*

*(Standing Order No. 244A, 244B and 244C agreed to)*

*Standing Order No. 245*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 245 be amended in paragraph (4) by deleting the words “ninety days after passing the Appropriation Bill,” and substituting therefor the words “30<sup>th</sup> June each year,”.

The justification is to align the wording of the Standing Order with the provisions of the Public Finance Management Act on the date by which the Finance Bill should be passed.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Standing Order No.245 as amended agreed to)*

*(Standing Order Nos. 246 and 247 agreed to)*

*Standing Order 248*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:



THAT, Standing Order 248 be amended by inserting the following new paragraph immediately after paragraph (1)—

(1A) There shall be published within seventy-two hours, a verbatim report of all proceedings of a Committee of the House where evidence is given, unless the Speaker is satisfied that this is rendered impossible by some emergency.

This is to require the preparation of *Hansard* Reports of proceedings of the Committee in which evidence is given.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, the 12<sup>th</sup> Parliament is not doing very well in producing *Hansard* Reports. I am sure you were in the 9<sup>th</sup> and 10<sup>th</sup> Parliaments. When you spoke on the Floor of the House like today, Thursday, by Wednesday or Tuesday the next week, you would have a verbatim report of what you said in your pigeon hole. I am sure that the new building will have pigeon holes. One is supposed to correct the verbatim report and then the Directorate of Hansard and Audio Services will correct it and give you back your copy. I do not know where the Hansard staff are in the 12<sup>th</sup> Parliament. I have never been given or sent an email of my verbatim report. I looked at the *Hansard* Report the other day. I asked one of the Hansard staff and he told me that I had spoken 17,000 times. However, I am sure that there are errors there which I can correct.

We have increased the hours to 72 hours which is very good to give them ample time. Members of the 13<sup>th</sup> Parliament will use the new building. There should be pigeon holes where the *Hansard* Report of every Member is put and then he or she can correct for generations to come. There are people who maybe want to use what you said in writing their books, reports or conducting other business. This is a very good amendment. However, the Directorate needs to put its act in order.

I support the amendment.

**Hon. Deputy Chairman:** Absolutely.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No.248 as amended agreed to)*

*Standing Order No.249*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 249 be amended by inserting the words, “and its committees” immediately after the words “proceedings of the House”.

The amendment provides for exclusion of secret matters from the proceedings of committees.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

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**Hon. Aden Duale** (Garissa Township, JP): This is a very good amendment. However, on matters of secrecy, I do not know whether we have done it. Like in other jurisdictions, there are certain committees of this House that have privileged confidential security information like the Departmental Committee on Defence and Foreign Relations and the Departmental Committee on Administration and National Security. Going forward, we need to vet Members of those Committees. For example, when the Inspector-General of Police, the Cabinet Secretary of Interior and Coordination of National Government and Director-General of Intelligence appear before them, it is not like the CS for livestock. I am not demeaning the CS for the Ministry of Agriculture, Livestock, Fisheries and Co-operatives. Those Members in other jurisdictions like in the United States of America are vetted and senior Members are picked. It is like the way you were saying that you cannot come for the first term in Parliament and become a Vice-Chairman or the Chair of the Departmental Committee on Defence and Foreign Relations, and Departmental Committee on Administration and National Security. We need to vet the Members.

I do not want to discuss a Member. However, let us adopt what other people do, so that when it is a closed session, it is so. This Standing Order on secrecy is very important in Parliament because it is a custodian of key Government and national security information.

**Hon. Deputy Chairman:** Very well.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Standing Order No.249 as amended agreed to)*

*Standing Order No.250*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 250 be amended—

(a) in paragraph (1) by inserting the words “and its committees” immediately after the words “the House”;

(b) in paragraph (2) by inserting the words “and its committees” immediately after the words “the House”.

The amendment provides for broadcast of proceedings of committees. Remember that this is something that has been ongoing throughout this Parliament. We are trying to open up committees to the public.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Kiarie.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Deputy Chairman, I know that we are rushing. To save time, this is a good proposal which I support. Even as we get into the 13<sup>th</sup> Parliament, we will have to really think about the Broadcast Committee. This Parliament generates a lot of content. If we can channel it in the right way, it can improve the image of this Parliament. We know that Members are popular individually, but collectively Parliament has become a punching bag. Its image out there is that which beams of *Mpigs*. I agree that when people see committees at work, they might start changing perceptions of what they think about this august House.

Thank you very much, Hon. Deputy Chairman. I support the amendment.

**Hon. Deputy Chairman:** Hon. Kiarie, it is a pity that when the Report of the Committee was taken to the Budget and Appropriations Committee, that was one of the areas that they said could wait for another time.

You see, they do not know it is about yourself because even when the Houses are not sitting, Committees are sitting. There is so much content generated through Parliament that needs to be aired constantly. We cannot have that happening while relying on other people.

However, everybody had done their bit.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.250 as amended agreed to)*

*Standing Order No.252*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, Standing Order 252 be amended by inserting the following new paragraphs immediately after paragraph (2)—

(2A) A person required to appear before a Committee of the House may request for the exclusion of the public at his or her appearance by notifying the Committee in writing at least twenty-four hours before their appearance.

(2B) The Committee shall consider a request under paragraph (2A) as against the requirements under Article 118 of the Constitution on facilitating public access to Parliament and public interest and notify the House each time it approves such request and provide reasons for the approval.

*(Consultations)*

**Hon. Deputy Chairman:** Standing Order 251 was deleted even in the current Standing Orders. So, it is not there. He is right.

**Hon. Moses Cheboi** (Kuresoi North, JP): Standing Order 252 is to provide the applicable procedure where the witness requests for in-camera proceedings.

*(Question for the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Standing Order No.252 as amended agreed to)*

*(Standing Order Nos. 253, 254, 255, 256, 256A,  
256B, 257, 257A, 258, 259, 259A, 260, 261, 262, 263, 264, 265,*

*265A, 265B, 265C, 265D, 266, 267 and 267A agreed to)*

*New Standing Order Nos.2B, 12C, 19A, 20A, 42G, 130A, 130B, 130C, 130D, 130E,170A, 173A, 173A, 177A, 205B, 206A, 206B, 207A, 208A, 208B, 232A, 245A, 259B, 259C, 259D, 259E, 259F and 259G*

*New Standing Order No.2B*

**Hon. Moses Cheboi** (Kuresoi North, JP); I beg to move:

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 2A—

**Clerk to obtain coalition agreements.**

**2B.** The Clerk shall obtain from the Registrar of Political Parties a certified copy of any coalition agreement entered into by two or more parties in the National Assembly for purposes of ascertaining the relative majorities in the House and facilitating the transaction of the business of the House.

*New Standing Order No.12C*

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 12A—

**Vacation from Office under Article 103 of the Constitution**

12B. (1) The office of the Speaker or the Deputy Speaker shall become vacant if the office holder vacates office under Article 103 of the Constitution.

(2) If the office of Speaker falls vacant at any time before the expiry of the term of Parliament, no business shall be transacted by the House until the election of a new Speaker.

(3) The Deputy Speaker shall preside over the election under paragraph (1) but if the Deputy Speaker is a candidate, a Member elected by the House in accordance with Article 107 of the Constitution shall preside.

*New Standing Order No.19A*

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 19—

**Election and removal of the Leader of the Majority Party and Deputy Leader of the Majority Party**

19A. (1) The largest party or coalition of parties in the National Assembly shall elect—

(a) a member of the National Assembly belonging to the party or coalition of parties to be the Leader of the Majority Party;

(b) a member of the National Assembly belonging to the party or coalition of parties to be the Deputy Leader of the Majority Party.

- (2) In electing members under paragraph (1), the largest party or coalition of parties in the National Assembly shall take into account—
- (a) any existing coalition agreement entered into pursuant to the Political Parties Act; and
  - (b) the need for gender balance.
- (3) The Majority Party Whip shall communicate the name of the Members elected under paragraph (1) to the Speaker in writing on behalf of the Majority Party.
- (4) The Speaker shall, as soon as practicable following receipt of the names under paragraph (3), convey the information to the assembled House, if the House is sitting, or notify Members, if the House is not sitting.
- (5) A Member of the largest party or coalition of parties may propose the removal of a Member elected under paragraph (1) by submitting a motion for consideration by the largest party or coalition of parties together with the names and signatures of at least a quarter of all the Members of the largest party or coalition of parties in support.
- (6) A Member elected under paragraph (1) may be removed by a majority of votes of all Members of the largest party or coalition of parties in the National Assembly.
- (7) The Majority Party Whip shall, upon a decision being made by the largest party or coalition of parties, notify the Speaker in writing of the decision of the largest party or coalition of parties to remove a Member elected under paragraph (1) and submit—
- (a) the minutes of the meeting at which the decision was made by the largest party or coalition of parties; and
  - (b) the names and signatures of the Members who resolved to remove the Member at the meeting.
- (8) Upon receipt of the notification and the documents under paragraph (7) and confirmation that the threshold for removal has been met, the Speaker shall notify the House of the decision of the largest party or coalition of parties and the office of a member elected under paragraph (1) shall fall vacant.

*New Standing Order No.20A*

THAT, the Standing Order be amended by inserting the following new Standing Order immediately after Standing Order 20—

**Recognition of Parliamentary Parties and Designation of Leaders and Whips**

20A (1) The Speaker shall recognize a party or coalition of parties consisting of not less than five percent of the membership of the National Assembly as a parliamentary party;

(2) Subject to Standing Order 19A (*Election and removal of the Leader of the Majority Party and Deputy Leader of the Majority Party*) and Standing Order 20 (*Election and removal of the Leader of the Minority Party and Deputy Leader of*

*the Minority Party*) a parliamentary party shall designate from among its Members—

- (a) the leader of the party in the Assembly and notify the Speaker, in writing, of the name of the Member.
- (b) a party whip and a deputy party whip for the purposes of the transaction of the business in the House.
- (3) The name of the Members designated as party whips shall be communicated to the Speaker in writing by—
  - (a) the Leader of the Majority Party on behalf of the Majority Party;
  - (b) the Leader of the Minority Party on behalf of the Minority Party; or
  - (c) the leader of a parliamentary party in the National Assembly in case of a parliamentary party that is not part of a coalition forming the Majority Party or the Minority Party.
- (4) A decision of a parliamentary party replacing its whip or deputy whip shall be communicated to the Speaker in writing by—
  - (a) the Leader of the Majority Party on behalf of the Majority Party;
  - (b) the Leader of the Minority Party on behalf of the Minority Party; or
  - (c) the leader of the parliamentary party in the National Assembly in case of a parliamentary party that is not part of a Coalition forming the Majority Party or the Minority Party.
- (3) The Speaker shall, as soon as practicable following receipt of the names under paragraphs (2) and (3) or the decision under paragraph (4), convey the information to the assembled House if the House is sitting or notify Members if the House is not sitting.

*New Standing Order No.42G*

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 42F—

**Part to Apply to Commissions and Independent Offices.**

42G. This Part shall apply to questions directed to constitutional Commissions and Independent Offices with necessary modifications.

*New Standing Order Nos.130A, 130B, 130C, 130D and 130E*

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 130—

**Limits on Consideration of Matters by Committee**

130A. A Committee shall not consider any matter other than a matter which has been referred to it or which it is required by these Standing Orders to consider.

### **Committee of the Whole House May Not Adjourn**

130B. A Committee may not adjourn its own sitting or the consideration of any matter to a future sitting, but the Chairperson may by Motion be directed notwithstanding that all matters referred to the Committee have not yet been considered, to report progress to the House and ask leave to sit again.

### **Report**

130C. When all the matters referred to a Committee of the whole House have been considered, the Chairperson shall be directed by Motion to report to the House.

### **No debate on Motion for Report**

130D. (1) When a Motion is made in Committee to report or to report progress and ask leave to sit again, the question shall be put forthwith and decided without amendment or debate and if the question is agreed to the Chairperson shall forthwith leave the Chair.

(2) Except as otherwise provided by these Standing Orders, every report under paragraph (1) shall be made without question put, and may, by Motion, be agreed to or negated by the House or re-committed to the Committee, or postponed for further consideration.

### **General Application of Rules in Committee**

130E. Except as otherwise provided in these Standing Orders, the same rules of order and of debate for the conduct of business shall be observed in Committee as in the House.

#### *New Standing Order No.170A*

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 170—

### **Ratification of Treaties**

170A. (1) A treaty submitted to the National Assembly for ratification shall be laid on the Table of the House and stand committed to the relevant Committee for consideration.

(2) The Committee shall undertake public participation before submitting its report to the House.

(3) In addition to the information required to be submitted to the National Assembly under written law, the Committee may require the relevant Cabinet Secretary to submit further information, including—

- (a) the social and environmental impact of the treaty in the short-term, medium-term and long-term; and,
- (b) the nature and evidence of any public participation conducted on the treaty.

(4) The report of the Committee to the House shall include—

- (a) information on the views of the people on the ratification of the treaty emanating from public participation conducted by the Committee;
- (b) the findings of the Committee on the treaty and any other information the Committee may deem necessary.
- (c) a recommendation that the House—
  - (i) approves the ratification of the treaty, or
  - (ii) approves the ratification of the treaty with reservations, or
  - (iii) rejects the ratification of the treaty.
- (5) In approving ratification of a treaty with reservations, the House shall specify the affected provisions of the treaty and the proposed text of each reservation, which may include prescription of timelines within which an obligation is to be fulfilled before implementation of the Treaty.
- (6) Upon decision of the House on a treaty the Clerk shall, within seven days, notify the relevant Cabinet Secretary and enter the information in the register of treaties.

*New Standing Order No.173A*

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 173—

**Membership of Committees**

- 173A. (1) Every Member has the right to serve in at least one committee of the House.
- (2) A Member may waive the right to serve in a committee of the House by notifying the Speaker in writing.

*New Standing Order No.177A*

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 177—

**Selection of Committee Responsible for Privilege and Conduct of Members**

- 177A. (1) In selecting members to the Committee of the House responsible for the powers and privileges of the House and the conduct of Members, the Committee on Selection shall consider—
- (a) previous service by a Member to the House as—
    - (i) Speaker;
    - (ii) Leader of the Majority Party;
    - (iii) Leader of the Minority Party;
    - (iv) Deputy Speaker; or
    - (v) a member of the Chairperson’s Panel;
  - (b) a Member with the longest cumulative period of service in—
    - (i) the National Assembly;



- (ii) the National Assembly, the Senate and the East African Legislative Assembly;
  - (iii) the Senate; and
  - (iv) the East African Legislative Assembly;
- (c) educational or professional background in law, senior public administration, mediation, arbitration, or any other deemed appropriate by the Speaker;
  - (d) relevant experience in parliamentary practice and procedure; and
  - (e) any contravention of Standing Order 107A (*Gross disorderly conduct*) or breach of the code of conduct applicable to a Member of Parliament within the term of Parliament.

*New Standing Order No.205B*

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 205A—

**Decentralized Funds Accounts Committee**

- 205B. (1) There shall be a select committee to be designated the Decentralised Funds Accounts Committee.
- (2) The Committee shall be responsible for the examination of the reports of the Auditor General on the accounts of –
- a) The National Government Constituencies Development Fund;
  - b) The National Government Constituencies Development Fund Board;
  - c) The National Government Affirmative Action Fund; and
  - d) The National Government Affirmative Action Fund Board;
- (3) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging parties not forming the national government, and not more than fourteen other members.
- (4) In the Membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.
- (5) The Decentralized Funds Accounts Committee shall not examine matters of policy or day-to-day administration of the special funds.
- (6) The Decentralized Funds Accounts Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

*New Standing Order Nos. 206A and 206B*

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 206—

**Public Investments Committee on Commercial Affairs and Energy**

206A. (1) There shall be a select committee to be designated the Public Investments Committee on Commercial Affairs and Energy.

(2) The Committee shall, with regard to the energy, environment, general economic and commercial affairs sectors—

- (a) examine the reports and accounts of public investments;
  - (b) examine the reports, if any, of the Auditor General on public investments; and
  - (c) examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.
- (3) Despite paragraph (2), the Committee shall not examine any of the following—
- (a) matters of major Government policy as distinct from business or commercial functions of the public investments;
  - (b) matters of day-to-day administration; and,
  - (c) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.
- (4) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging to parties not forming the national government, and not more than fourteen other members.
- (5) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.
- (6) The Speaker shall, at the beginning of every term of Parliament or at such other time as may be appropriate, issue a schedule specifying the state corporations falling within the mandate of the Committee.
- (7) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.
- (8) This Standing Order lapses at the end of each term of the Assembly.
- (9) The House may by resolution suspend paragraph (8).

**Public Investments Committee on Social Services, Administration and Agriculture**

206B. (1) There shall be a select committee to be designated the Public Investments Committee on Social Services, Administration and Agriculture.

(2) The Committee shall, with regard to the agriculture, public administration, health, and social protection sectors,—

- (a) examine the reports and accounts of public investments;

- (b) examine the reports, if any, of the Auditor General on public investments; and
  - (c) examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.
- (3) Despite paragraph (2), the Committee shall not examine any of the following—
- (a) matters of major Government policy as distinct from business or commercial functions of the public investments;
  - (b) matters of day-to-day administration; and,
  - (c) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.
- (4) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging to parties not forming the national government, and not more than fourteen other members.
- (5) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.
- (6) The Speaker shall, at the beginning of every term of Parliament or at such other time as may be appropriate, issue a schedule specifying the state corporations falling within the mandate of the Committee.
- (7) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.
- (8) This Standing Order lapses at the end of each term of the Assembly.
- (9) The House may by resolution suspend paragraph (8).

*New Standing Order No.207A*

THAT the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 207—

207A. Public Debt and Privatization Committee

- (1) There shall be a select committee to be designated the Public Debt and Privatisation Committee.
- (2) The Committee shall be responsible for —
  - (a) oversight of public debt and guarantees pursuant to Article 214 of the Constitution;
  - (b) examination of matters relating to debt guarantees by the National Government;
  - (c) oversight of Consolidated Fund Services excluding audited accounts;
  - (d) examination of reports on the status of the economy in respect of the public debt;
  - (e) oversight of public private partnership programmes by the national government in respect of the public debt; and
  - (f) oversight of the privatization of national assets.

- (3) With respect to the national debt, the Committee shall—
- (a) consider and examine terms on which the national government may borrow including the debt ceiling;
  - (b) examine the extent of total national indebtedness;
  - (c) examine the use made or to be made of the proceeds of national loans and guarantees by the national government;
  - (d) examine the provisions made for servicing or repayment of national loans and guarantees;
  - (e) examine the annual medium term Debt Management Strategy submitted by the Cabinet Secretary responsible for finance to the National Assembly;
  - (f) examine the progress made in the repayment of national loans and loans guaranteed by the national government;
  - (g) consider and examine proposals by the national government with respect to loans and guarantees to a county government under Article 212(a) of the Constitution;
  - (h) examine annual reports submitted to the National Assembly under Article 213(2) of the Constitution with respect to the guarantees made by national government;
  - (i) examine quarterly reports submitted to Parliament by the Cabinet Secretary on all loans made to the national government, national government entities and county governments, in accordance with Article 211(2) of the Constitution;
  - (j) examine the terms and conditions that the national government guarantees loans;
  - (k) examine the adherence to the principle of inter-generational equity in public borrowing;
  - (l) examine compliance of the national government with the Constitution or statute with respect to public borrowing and guarantees; and
  - (m) examine reports submitted by the Cabinet Secretary on credit guarantees to micro, small and medium enterprises.
- (4) The Committee shall make reports and recommendations to the House as often as possible, including recommendation on proposed legislation on matters under its mandate.
- (5) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging to parties not forming the national government, and not more than fourteen other members.
- (6) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.
- (7) The Public Debt and Privatization Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

*New Standing Order Nos.208A and 208B*

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 208—

**Public Petitions Committee**

208A. (1) There shall be a select committee to be designated the Public Petitions Committee.

- (2) The Committee shall be responsible for—
  - (a) considering all public petitions tabled in the House;
  - (b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions
  - (c) recommending whether the findings arising from consideration of a petition should be debated;
  - (d) advising the House and reporting on all public petitions committed to it.
- (3) The Committee shall consist of a Chairperson and not more than fourteen other members.
- (4) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

### **Diaspora Affairs and Migrant Workers Committee**

- 208B (1) There shall be a select committee to be designated the Diaspora Affairs and Migrant Workers Committee.
- (2) The Committee shall be responsible for—
    - (a) considering all matters directly relating to policies and programmes for the protection of the rights and welfare of Kenyans in the diaspora, including—
      - (i) Kenyan nationals with dual citizenship;
      - (ii) Kenyan migrant workers and their families abroad; and
      - (iii) Kenyan undertaking studies overseas;
    - (b) examining policies and programmes of the national government for—
      - (i) efficiently harnessing, mobilizing and steering of Kenyan resources in the diaspora for economic, socio-cultural development;
      - (ii) engaging and facilitating Kenyans in the diaspora, including persons eligible for dual citizenship; and
      - (iii) suffrage of Kenyan nationals in the diaspora.
  - (3) The Committee shall consist of a Chairperson and not more than fourteen other members.
  - (4) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

### *New Standing Order No.232A*

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 232—

### **Presentation of Debt Management Strategy**

- 232A. (1) Every year not later than 15<sup>th</sup> February the Cabinet Secretary responsible for Finance shall submit to the House a Debt Management Strategy.
- (2) The Debt Management Strategy shall include—

- (a) the total stock of debt as at the date of the statement;
  - (b) the sources of loans made to the national government and the nature of guarantees given by the national government;
  - (c) the principal risks associated with those loans and guarantees;
  - (d) the assumptions underlying the debt management strategy; and
  - (e) an analysis of the sustainability of the amount of debt, both actual and potential.
- (3) Upon being laid before the House, the Debt Management Strategy shall be committed to the Public Debt and Privatization Committee.
- (4) Within ten (10) days following the tabling of the Debt Management Strategy, the Public Debt and Privatization Committee shall table a report in the House for consideration.
- (5) The report of the Public Debt and Privatization Committee under paragraph (4) shall include –
- (a) a schedule showing the stock of domestic and foreign public debt including guarantees, as at the date of the statement;
  - (b) an evaluation of the principal risks associated with the existing loans and guarantees;
  - (c) an evaluation of the sustainability of the amount of debt, both actual and potential;
  - (d) a recommendation on the overall debt strategy for the next financial year and the medium term; and
  - (e) a recommendation on the appropriate limit on proposed domestic and foreign borrowing for the next financial year and the following two financial years.
- (6) The House shall consider the report of the Public Debt and Privatization Committee on the Debt Management Strategy before considering the report of the Budget and Appropriations Committee on the Budget Policy Statement.
- (7) The resolution of the House on the report of the Public Debt and Privatization Committee on the Debt Management Strategy shall constitute the House Resolution on the appropriate limit on proposed domestic and foreign borrowing for the next financial year.
- (8) The resolution of the House on the Debt Management Strategy shall-
- (a) be the appropriate limit on proposed domestic and foreign borrowing for the next financial year;
  - (b) form a basis for the approval of the Report of the Budget and Appropriations Committee on the Budget Policy Statement.

*New Standing Order No.245A*

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 245—

**Budget Implementation Monitoring**

245A (1) The Budget and Appropriations Committee shall, in examining the implementation of the National Budget —

- (a) review quarterly reports submitted by the Cabinet Secretary responsible for finance pursuant to the Public Finance Management Act;
  - (b) review reports submitted by the Controller of Budget relating to implementation of Budget with respect to Parliament and the Office of the Auditor General;
  - (c) examine and report on the expenditures and non-financial performance of the Budget of Parliament and the Office of the Auditor General;
  - (d) examine conformity of the implementation process with the principles and values of public finance as set out in Article 201 of the Constitution; and
  - (e) confirm whether any new resources arising from tax revenue and grants raised by the National Government within the year are spent to reduce the fiscal deficit.
- (2) Each Departmental Committee shall, pursuant to Standing Order 216(5) (ba)—
- (a) review the quarterly reports submitted by the Cabinet Secretary responsible for finance pursuant to the Public Finance Management Act, 2012;
  - (b) review reports submitted by the Controller of Budget on matters relating to implementation of the Budget by the national government;
  - (c) examine and report on the expenditures and non-financial performance of the Budget of the national government; and
  - (d) examine the conformity of the implementation process with the principles and values of public finance as set out in Article 201 of the Constitution.

*New Standing Order Nos. 259B, 259C, 259D, 259E, 259F and 259G*

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 259A—

**Caucus of Independent Members**

- 259B. (1) The Speaker may, upon the written request of at least ten Independent Members, recognize a caucus of Independent Members for purposes of facilitating Independent Members to discharge their role in National Assembly.
- (2) A request to the Speaker under this Standing Order shall contain the names and signatures of the proposed Members of the caucus.
- (3) For the purpose of this Standing Order, the Speaker shall only recognize one caucus.

***Ad hoc* Committees**

- 259C. (1) A Member may, subject to the approval of the House Business Committee, move a motion proposing the establishment of an *ad hoc* Committee on a specific and exceptional subject not under active consideration by a Committee of the House.
- (2) A motion under this Standing Order shall—
- (a) indicate the proposed name of the Committee;

- (b) outline the proposed mandate of the Committee and the exceptional nature of the subject to be considered; and
- (c) indicate the proposed membership and leadership of the Committee;
- (3) The mover of a motion under this Standing Order shall ensure that—
  - (a) the proposed membership of the Committee reflects the relative majorities of the seats held by each of the parliamentary parties in the National Assembly and takes into account the interests of parties other than parliamentary parties and Independents; and
  - (b) not more than two-thirds of the proposed membership of the Committee are of the same gender.
- (4) Unless the House otherwise resolves, an *ad hoc* committee shall consider and report on the subject matter of its mandate within ninety days.

### **Tributes of the House**

- 259D. (1) The Speaker shall report to the assembled House the demise of a person whom the Speaker considers necessary for the House to note and tributes of the House may be made by way of an exceptional motion.
- (2) A Member may, with leave of the Speaker,
- (a) report the demise of a former Member; or
  - (b) notify the House of an exceptional national, regional or international achievement by a Kenyan;
- (3) The Speaker may allow Members to make brief comments following a report made or notification given under this Standing Order.
- (4) The Clerk shall convey a certified copy of the relevant *Hansard* to the family of a person to whom the House gives tribute.

### **Nomination or Appointment to a Public Office by the House**

259E. Where written law or subsidiary legislation requires the National Assembly to nominate a person for appointment or to appoint a person to a public office the Speaker may, in the absence of prescribed criteria, issue guidelines on the manner of nominating the person or making the appointment.

### **Members' Biodata and Roll**

- 259F. (1) At the commencement of every Parliament or following a by-election, a Member shall submit to the Clerk biodata in the form prescribed in the Tenth Schedule for purposes of facilitating the Member in the affairs of the National Assembly and for public information.
- (2) A Member may at any time during the term of a Parliament update the information submitted under paragraph (1).
- (3) The Clerk shall keep custody of Members' biodata and regularly update the data whenever a Member submits information and may publish the information on the Parliamentary website.



(4) A Member shall be responsible for the accuracy of the information provided under this Standing Order.

(5) At least one month before the end of a term of Parliament, the Clerk shall publish in the *Gazette*, a Roll of Members who served in that Parliament in alphabetical order.

### **Designation of Ranking Members**

259G. (1) The Speaker may, from time to time, recognise and designate a Member of the House as a Ranking Member.

Hon. Deputy Chairman, permit me to go bit by bit on every specific one starting with new Standing Order No.2B. This is to require the Clerk to obtain any coalition agreement that may affect the transaction of business of the House for use by the Speaker in giving guidance and when it becomes necessary.

New Standing Order No.12C is to provide for vacation of office of a Speaker or a deputy Speaker to re-introduce the deleted Standing Order No.42 and 43 for logical flow in the Standing Orders.

New Standing Order No.19A is to enhance the process of elections and removal of office of the Leader of the Majority Party and Deputy Leader of the Majority Party. A Member seeking to remove the Deputy Leader of the majority Party or the Leader of the Majority Party shall file a Motion within the party supported by at least one quarter of the Members of the party. When communicating the decision to remove the Leader of the Majority Party or the Deputy, the Whip must attach minutes of the meeting and names and signatures of Members who attended and resolved the removal of the Deputy Leader of the Majority Party and the Leader of the Majority Party.

This is basically to enhance those positions so that the Speaker is always sure when matters have been transacted by the party so that justice is done to the holders of those offices.

New Standing Order 20A provides for the recognition of parliamentary parties and to require parliamentary parties other than the Majority and minority parties to designate their leader in the House, their Whips and Deputy Whips.

For 42G, it is to apply the entire part on Questions to Questions directed to constitutional commissions and independent offices with necessary modification.

Standing Order Nos. 130A, 130B, 130C, 130D and 130E, are to re-introduce Standing Order Nos. 166, 167, 168, 169 and 170 in the part of dealing with Committees of the whole House for logical flow of Standing Orders.

The New Standing Order 170A is to provide the procedure for ratification of treaties, including making reservations.

For New Standing Order 173A, the justification is to provide for the entitlement of Members to serve in Committees, unless they waive such right by written notice to the Speaker. That anyhow removal by Members becomes a little more tedious.

For 177A, it is to prescribe criteria for selecting Members to serve in the Powers and Privileges Committee. This is a critical one because it is where, as we had discussed a little earlier, we create some semblance of professionalism in this very important Committee so that those Members who are supposed to be placed in this Committee to preside over matters that have to do with integrity and discipline of other Members must be those who are themselves above board and they are fairly more senior Members of the House. For example, Members who have previously

served as Speaker and come back as MP will be given some consideration. It is not to say that every Speaker or every Leader of the Majority Party or every Leader of the Minority Party who comes back is considered. But, when considering them, these will be given the first opportunity because they have some experience. That is a critical one I wanted to discuss a bit at length.

For the New Standing Order No.205B, it is to establish a new Committee mandated to examine the audited accounts of the NG-CDF and the NGAAF and their respective boards, and to provide for the Committee to be constituted after a general election to serve for three years in the first instance and the subsequent Committee to serve for two years. This is the one which has been split. It is the SFAC which has been split into two to make it a bit more efficient and deal with the numerous accounts, particularly those which touch on the NG-CDF which are 290 and the NGAAF which is another 47 and other decentralised funds.

On the New Standing Order Nos.206A and 206B which deal with PIC, it is now split into three. It gives out specific mandates to establish the two new PIC Committees to examine audit reports of State Corporations in energy, environment, general economic and commercial affairs sector and agriculture. It is the one to require the Speaker to issue a schedule for what these specific Committees will be dealing with specifically.

New Standing Order 207 is a critical one. I have heard two Members speak to it here, Hon. K.J. and Hon. Duale. It is an establishment of the Public Debt and Privatisation Committee. The justification is to establish a specific Committee, not through the Budget and Appropriations Committee or the Departmental Committee on Finance and National Planning, to interrogate matters relating to the national debt and the privatisation of national assets; and, to reserve the chairmanship of the Committee to the Minority Party.

The New Standing Order Nos. 208A and 208B are on the Committee on Public Petitions, which have also been discussed at length. They created the Committee on Public Petitions. It has been realised that the other Committees are overwhelmed. Committees like Departmental Committees are basically to oversee specific ministries and departments. When you add petitions, the workload becomes huge. This part also speaks to the designation of spaces in the Assembly for picketing and creating timelines so that people do not sleep within the precincts of Parliament. The Committee will also have timelines within which to process people's grievances.

Another specific and important Standing Order is Standing Order 208. It creates the Committee on Diaspora Affairs and Migrant Workers. People in the diaspora bring quite a lot of funds to the country. It forms the second-largest foreign exchange earner. This Committee will help Kenyans living and working outside the country.

New Standing Order 245A is about Budget implementation and monitoring by the Budget and Appropriations Committee and all Departmental Committees. Standing Order Nos. 259B, 259C and 259D are about caucuses and *ad hoc* Committees. The proposal for a caucus for Independent Members was given by the Member for Kibwezi West, who wants to become the governor of Makeni.

Members will also be able to report demise of a former Member of Parliament, with the leave of the Speaker. We are trying to formalise the process. We are creating a way through which such demise can be reported and a record of tributes of Members made.

The other Standing Order is on a biodata roll. It is a critical amendment. It was proposed by Hon. Duale and Hon. K.J. But there were concerns about controlling unnecessary use of the data. There is also the issue of designation of ranking Members. If, for example, you the Speaker were to come back to this House as a Member, you would be acknowledged as a ranking Member. And for sure you would be.

I thank you.

*(Question, that the new Standing Orders  
be approved, proposed)*

**Hon. Deputy Chairman:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Chairman, this is where reforms are made. I participated in revising the Standing Orders in the 10<sup>th</sup> Parliament, but this is more serious. The new Standing Orders allow Commissions and Independent Offices to answer questions. They also limit mandates of Committees.

On the ratification of treaties, we are always asked to ratify with background information. If we have to ratify a defence treaty between the Kenya Government and the British Government, we must be given full information and disclosure. Standing Order No. 170A is saying Parliament must receive full disclosure. Last time you remember the *miraa*-growing areas gave us hell. I was wondering how a defence agreement had got to do with that. Later we realised the British Government banned *miraa* in their jurisdiction. You remember even the one of the Italian Government, San Marco, of Malindi.

The other important thing is that now the Speaker will recognise political parties in the House. Apart from marshalling the 5 per cent to be a parliamentary party, there are so many small parties here. Now I think you have an opportunity to recognise them as the next Speaker. Then there are parliamentary caucuses and creation of their own rooms. You know we must change the system where even parliamentary group meetings are done in State House. I have been to higher jurisdictions. If you go to Germany... I think it was the Deputy Speaker who was with us. We went to Germany and every Tuesday, the Germany Chancellor walks to the German Parliament and holds her parliamentary group meeting there. It is the same with Turkey. The Prime Minister and the President currently go to Parliament to meet their people.

I think under the new reforms that we have introduced under your leadership, we will then have the Public Petition Committee. Petitions are very critical. Every day, petitions are being read either by you or by Members and then they are sent to different committees and committees are very busy. A good example is the Budget and Appropriations Committee. However, now we have a committee dedicated to petitions whether it is from the public, an individual or an organisation.

Of course, I think the Diaspora Affairs and Migrant Workers Committee is very timely. A number of issues have come here, but above all the most important thing is that... The Member for Nambale, Hon. Sakwa Bunyasi is not here. Now we have a Committee that will deal with debt management. We will not leave it at the mercy of the Budget and Appropriations Committee.

I think the Deputy Speaker had interest in caucuses of these independent Members. Being now an independent candidate, he wants to formalise his *kamukunji*. Because there is a high chance he is going to win, he wants to compete with serious parties like Azimio and the Kenya Kwanza Coalition. Because we know he is a ranking Member, we do not mind if he becomes the leader of the independent members group, which will be very critical. I do not know how many they are now but from the way things are going on, independent candidates will be very many. Now we have 26 of them. Imagine if they are 50 of them. I wish him well because he has foresight. He is seeing very far and because he led a very informal group in the last two Parliaments, we need to recognise the Deputy Speaker in an official job in the Standing Orders.

Hon. Deputy Chairman, I think this is where the reforms are. As I said, from having Standing Orders in Kiswahili and many other things, please, make sure before the end of your term, this building is handed over to Parliament so that it also becomes your legacy and your reform agenda. I support.

**Hon. Deputy Chairman:** Hon. K.J.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you, Hon. Deputy Chairman. Without belabouring the point, I agree with the Leader of the Majority Party emeritus that this is where the reforms are. Allow me to talk about two things on the raft of proposals that were moved. The first one is on treaties. If you remember, in the life of this Parliament, you have once been very magnanimous as to accord me an opportunity to question how a treaty landed on the Floor of this House without the preliminary need for public participation and other requirements. I think that in itself is a good proposal. I pray that it is passed.

The second one is on caucuses. I have had opportunity to head the World Scout Parliamentary caucus in this Parliament. Had it not been for the assistance and kind care that you and the Clerk of the National Assembly have given to us, that caucus would be dead. It is very vibrant today. This strengthens such very special caucuses.

Finally, is on the issue of biodata. I want to allay the fears that any Member has. This very House in this Session put in place the Data Protection Act, which is very robust. It borrows greatly from not only industry practice, but also international existing laws on data like the European Union General Data Protection Regulation (GDPR), which is very progressive. We are ahead of them with our Data Protection Act. We should allay the fears that Members have on the privacy of their data, if only the Data Commission lives up to the provisions that this House made in the Data Protection Act.

Thank you very much, Hon. Deputy Chairman.

**Hon. Deputy Chairman:** Hon. Martin Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Deputy Chairman, I am equally happy with these new Standing Orders. However, I want to single out the members of the diaspora who do a lot, but are frustrated. If they have a committee which they can bring all the grievances to and legislation that they would like to put in place, they can remit even more. They have remitted about Kshs325 billion this year which is less by 5 per cent what they remitted the other year. That shows they can do much more if they have a committee that listens and visits them.

The other thing is having a way of addressing those Members who will come to Parliament for the first time. We have been called names like term one Members of Parliament and *monos*.

*(Laughter)*

This will be good. After campaigning and being voted for, in my case by almost 80,000 people, and then you are called a mono, you remember your form one memories which are not very sweet. This is good. Even in the United States of America, they use Junior Senators, which is much better. As you climb up, you become a ranking Member. This is in order. All in all, we are heading in the right direction. I am happy to be part of making these Standing Orders which will be used when I come back.

**Hon. Deputy Chairman:** Well spoken. Hon. Omulele who has been a Member of the Committee.

**Hon. Christopher Omulele** (Luanda, ODM): Thank you, Hon. Deputy Chairman for allowing me this opportunity to say that the Committee that came up with the amendments to these

rules has been sitting here quietly listening the Members' debate. This is work that has taken a lot of hours. On behalf of my fellow Members of the Chairperson's Panel, we have served under you. I have served for two terms now. Out of my working experience, you are the best boss that I have ever worked for. You allowed me latitude to work, express myself and be myself. I thank you for that. I am sure that I am speaking on behalf of all the Members of the Chairperson's Panel whom you have given a lot of confidence in the work they do for this country. We are grateful.

We are also grateful to the rest of the House for passing these amendments, rules and having robust discussions. For us who are still hoping to come back to this House in the 13<sup>th</sup> Parliament, we will explain to the new Members who will come why each rule is the way it is, because these Members have made it easy for us to do that. Personally, I stepped back. I did not want to really participate in the debate because I was in the back room. So, it was important to allow the House to express itself on the thoughts that we had when coming up with these rules.

Thank you for giving me this opportunity to thank the House and yourself, Hon. Speaker. Thank you for. May God bless you.

**Hon. Deputy Chairman:** Hon. Jessica Mbalu, also a Member of the Committee.

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Hon. Deputy Chairman, as a Member of the Committee, allow me just to be on record that I support the amendments that the 12<sup>th</sup> Parliament has made on the Standing Orders. Indeed, as a Member of the Panel under you, I also wish to congratulate Hon. Cheboi, our boss, and Hon. Deputy Speaker, on the same. We support the proposed amendments and the will of the Members. That is why we had to leave the Members to cast their votes and hence amendments.

I must thank the Members that have stayed for the longest time. These are very serious Members. It must be noted that even Hon. Cheboi, the Mover of the proposed amendments and these Members, should become ranking Members in the House. They have sat for long and ensured that the Standing Orders that will be used in the 13<sup>th</sup> Parliament or the next Parliament are in order.

Therefore, I confirm that we chose Hon. Omulele to confirm our appreciation.

**Hon. Deputy Chairman:** Thank you very much. I think Members are still desirous to transact the rest of the business and I think that is why I can see some Members are not tired like Hon. Wanga. Therefore, Hon. Members, in keeping with our procedures and rules, I have to put the Question, which I hereby do.

*(Question, that the New Standing Orders  
be approved, put and agreed to)*

That is one segment.

*(First Schedule agreed to)*

*Second Schedule*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by deleting the Second Schedule and substituting therefor the following new Schedule—

## SECOND SCHEDULE

*[Standing Order 216]*

Committee title	Subject matter
Administration & Internal Affairs	Home affairs, internal security – including police services and coast guard services, public administration, immigration and citizenship.
Agriculture & Livestock	Agriculture, livestock, food production and marketing.
Blue Economy & Irrigation	Use and regulation of water resources, irrigation, fisheries development including promotion of aquaculture, fish farming, marine fisheries, the sustainable use of ocean resources for economic growth and improved livelihoods, except sea ports and marine transport.
Communication, Information & Innovation	Communication, information, media and broadcasting (except for broadcast of parliamentary proceedings), information technology, communication technology, including development and advancement of technology, data protection and privacy, cyberspace and cyber-security, artificial intelligence, block-chain technology, and other emerging technologies.
Defense, Intelligence & Foreign Relations	Defense, intelligence, foreign relations, diplomatic and consular services, international boundaries Including territorial waters, international relations, and veteran affairs.
Education	Education, training, curriculum development, and research.
Energy	Fossil fuels exploration, development, production, maintenance and distribution, nuclear energy, clean energy and regulation of energy.

Environment, Forestry & Mining	Climate change, environment management and conservation, forestry, mining and natural resources, pollution, waste management.
Finance & National Planning	Public finance, public audit policies, monetary policies, financial institutions (excluding those in securities exchange), economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
Health	Health, medical care and health insurance including universal health coverage.
Housing, Urban Planning & Public Works	Housing, public works, urban planning, metropolitan affairs, housing development and built environment.
Justice and Legal Affairs	Judiciary, tribunals, access to justice, public prosecutions, ethics, integrity & anti-corruption, correctional services, community service orders and witness protection, Constitutional affairs, sovereign immunity, elections including referenda, human rights, political parties, the State Law Office, including, insolvency, law reform, public trusteeship, marriages and legal education.
Labour	Labour including migrant labour, human capital and remuneration, trade union relations and public service.
Lands	Matters related to lands and settlement including, land policy, land transactions, survey & mapping, land adjudication, settlement, land registration, land valuation, administration of community and public land and land information & management system
Regional Development	Regional development, including regional development authorities; refugee affairs; devolution; inclusive growth; arid and semi-arid areas; disaster risk management; drought, famine and disaster response; and post-disaster recovery and rehabilitation.

Social Protection	Social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
Sports & Culture	Sports, culture, language, creative economy including promotion of music, arts, film promotion and development, national heritage and betting & lotteries.
Tourism & Wildlife	Tourism & tourism promotion and management, tourism research and wildlife management.
Trade, Industry and Cooperatives	Trade, including securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion & development including micro, small & medium enterprises (MSMEs), and small and medium enterprises (SMEs), intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.
Transport & Infrastructure	Transport, including non-motorized transport, construction and maintenance of roads, rails, air and marine transport, seaports and national integrated infrastructure policies and programmes and transport safety.

This is basically the increase of departmental committees. It is meant to increase the departmental committees from 15 to 20 in order to rationalise their respective committees. Of importance is the Water, Fisheries and Irrigation Committee, Social Protection Committee, Tourism and Wildlife Committee, Housing, Urban and Public Works Committee, which have been created to add to the 15 that were there to make them 20.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Second Schedule as amended agreed to)*



*(Third, Fourth, Fifth, Sixth, Seventh and Eight Schedules agreed to)*

*New Ninth and New Tenth Schedules*

**Hon. Moses Cheboi** (Kuresoi North, JP); Just a minute, Hon. Deputy Chairman. Let me confirm something.

Hon. Chairman, I beg to move:

THAT, the Standing Orders be amended by inserting the following New Schedules immediately after the Eighth Schedule—

### NINTH SCHEDULE

#### Form of Nomination Paper (Standing Order 5(3A))

#### NOMINATION PAPER FOR ELECTION TO THE OFFICE OF SPEAKER OF THE NATIONAL ASSEMBLY

##### 1. CANDIDATE:

- (a) Surname .....
- (b) Given Name(s) .....
- (b) National Identity Card or Passport Number .....
- (c) Gender .....
- (d) Date of Birth .....
- (e) Postal Address .....
- (f) Physical Address .....
- (g) E-mail Address .....
- (h) Mobile Phone Number .....
- (i) Other Telephone Number(s) .....

(j) Occupation .....

## 2. CANDIDATE'S CONSENT TO NOMINATION

I, ..... do hereby consent to my nomination as a candidate for election as Speaker of the National Assembly and attach hereto—

- (a) a letter from the Independent Boundaries and Electoral Commission evidencing the fact that I am qualified to be elected as a Member of Parliament under Article 99 of the Constitution and I am not such member;
- (b) my curriculum vitae; and,
- (c) copies of my certificates and other relevant documents.

Signature of Candidate..... Date.....

## 3. PROPOSERS:

We, the undersigned, having been duly elected to the National Assembly, do hereby declare that in our personal knowledge, the candidate named above is not a Member of Parliament, is qualified to be elected as a Member of Parliament pursuant to Article 99 of the Constitution and is willing to serve as Speaker of the National Assembly and, therefore, propose the above-mentioned person for election as Speaker of the National Assembly—

NO	MEMBER'S NAME: <i>(Indicate the Surname and other given names)</i>	CONSTITUENCY	I.D CARD NO. /PASSPORT NO.	SIGNATURE
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

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13				
14				
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19				
20				

**4. CERTIFICATE OF THE CLERK OF THE NATIONAL ASSEMBLY**

I certify that this nomination paper was delivered to me at my office by.....of I.  
 D. Number/Passport No. .... at..... a.m./p.m.\* on the ..... day of  
 ..... in the year.....

Signature of the Clerk .....  
 Clerk of the National Assembly.  
 (Official Stamp)

**Notes: \*A nomination paper must be delivered duly completed by the candidate to the Clerk of the National Assembly at the Clerk’s Office at least forty-eight (48) hours before the time appointed for the House to meet to elect a Speaker.**

**TENTH SCHEDULE**

**Biodata Form**

*[Standing Order 259E]*

**BIO DATA FORM FOR MEMBERS**

**Kindly take time to fill this form. The data gathered shall be used in the parliamentary website and for other official purposes.**

1. Title: Mr./Mrs./Ms./Prof./Dr./Other \_\_\_\_\_ (*Tick one or specify*)
2. Surname \_\_\_\_\_ Other Names \_\_\_\_\_
3. Constituency/County of Representation \_\_\_\_\_
4. Political Party \_\_\_\_\_ Independent \_\_\_\_\_
5. Date of Birth: Day \_\_\_\_ Month \_\_\_\_ Year \_\_\_\_
6. Gender: \_\_\_\_\_
7. Postal Address \_\_\_\_\_
8. Office Telephone \_\_\_\_ \_\_\_\_ Extension
9. Email Address(es):
  - i. \_\_\_\_\_
  - ii \_\_\_\_\_
10. Cell Phone: \_\_\_\_\_

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i. \_\_\_\_\_  
 ii \_\_\_\_\_

11. Religion \_\_\_\_\_

12. Education Background (*From Highest Level Attained*):

From	To	Institution	Qualification

13. Previous Employment/Service History:

From	To	Employer	Position Held

14. Membership to Committees from Previous Parliaments; i.e. 12th, 11th, 10th, 9th etc:

From	To	Committee	Position Held

15. Professional Affiliations:

\_\_\_\_\_

16. Honours/Awards:

\_\_\_\_\_

17. Special Skills:

\_\_\_\_\_

18. Areas of Interest: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

19. Are you a person with disability: Yes \_\_\_\_\_ No \_\_\_\_\_

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If ‘Yes’ please give details of the nature and any special requirements:

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NB: A Member shall be responsible for the accuracy of the information provided on this form

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This is basically on nominations of the Speaker, and the process of doing that. The New Tenth Schedule is about the biodata of Members. This is something that is fairly straightforward and clear.

On the part of the one by the Speaker, it is to formalise the method of appointment and nomination of the Speaker and for the second one, it is on the biodata just to show how that particular form will be filled. So, it is to prescribe a form of the nomination paper for the Speaker and a form for collection of Members’ biodata.

*(Question of the new schedules proposed)*

*(New Schedules read the First Time)*

*(Question, that the new schedules be read a Second Time proposed)*

*(Question, that the new schedules be read a Second Time, put and agreed to)*

*(New schedules were read a Second Time)*

*(Question, that the New Schedules be added to the Standing Orders, put and agreed to)*

*Standing Order No.2*

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Chairman, I beg to move:

THAT, Standing Order 2 be amended—

- (a) in the definition “allotted day” by inserting the words “the debate on the President’s Address to Parliament as provided under Part V of the Standing Orders or” immediately after the words “set aside for”;
- (b) by deleting the definition “Majority Whip” and substituting therefor the following new definition—  
“Majority Party Whip” means the Member designated as the Party Whip by the Majority Party; has the meaning assigned to it under Standing Order 19A;
- (c) by deleting the definition “Minority Whip” and substituting therefor the following new definition—

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“Minority Party Whip” means the Member designated as the Party Whip by the Minority Party;

- (d) by deleting the definition “Parliamentary party” and substituting therefor the following new definition—

“Parliamentary party” means a party recognized by the Speaker as a parliamentary party pursuant to Standing Order 20A (*Recognition of Parliamentary Parties and Designation leaders and Whips*);

- (e) by deleting the definition “Party Whip” and substituting therefor the following new definition—

“Party Whip” means a Member designated by a parliamentary party as its party whip for the purposes of the transaction of the business in the House and includes the Whip of the Majority Party and the Whip of the Minority Party;

- (f) in the definition “sitting” by deleting the words “but two or more periods of sitting within the normal period of one sitting, or within an equivalent period, shall not rank as more than one sitting” appearing immediately after the words “equivalent period”;

- (g) by inserting the following new definition in proper alphabetical sequence—

“Division list” means a list prepared by the Clerk containing names of Members of Parliament arranged in the alphabetical order of—

- (a) their constituencies; and,
  - (b) the special interests represented by the Members nominated under Article 97(1)(c) of the Constitution.
- (h) in paragraph (2) by inserting the words “or parliamentary offices; by electronic means to the Members’ official communication addresses or telephone numbers;” immediately after the words “pigeon holes”;

The justification is to include the days reserved for debate of the President’s Address under definitions of the Allotted Day. It is also define and harmonise the use of terms “Majority Party Whip” and “Minority Party Whip” and to amend the definitions of “Parliamentary Party” and “Party Whip” for purposes of clarity. It also defines the term “Division List” as used within the Standing Orders; and to provide for the use of electronic means to communicate with Members.

*(Question of the amendment proposed)*

**Hon. Deputy Chairman:** Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Chairman. I support the amendment, especially on the clarity of the use of the word “Whip”. Most of my colleagues still imagine that the phrase “Chief Whip” still exists yet with the current Constitution, it is the Whip of the Majority Party or the Whip of the Minority Party. Therefore, that clarity is good and I support it.

**Hon. Deputy Chairman:** Very well. Any other comment? No other comment. I will, therefore, put the Question.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be  
inserted, put and agreed to)*

*(Question, that the words to be inserted be  
inserted, put and agreed to)*

*(Standing Order 2 as amended agreed to)*

*(Title agreed to)*

**Hon. Moses Cheboi** (Kuresoi North, JP): Before I move, Hon. Deputy Chairman, it is interesting that a normal human being can be in the House from 2.30 p.m. to 8.30 p.m. without taking a break. I must congratulate you. If you were a motor vehicle, it would have been said that the engines you have are working very well.

Allow me to move that the Committee doth report to the House its consideration of the National Assembly Standing Orders and its approval thereof with amendments.

*(Laughter)*

**Hon. Deputy Chairman:** Very well. Thank you, Hon. Moses Cheboi, the Deputy Speaker. You have also done very well.

*(Question proposed)*

*(Question put and agreed to)*

We will move to the next business. There will be another Chairman.

*[The Deputy Chairman (Hon. Justin Muturi) left the Chair]*

*[The Temporary Deputy Chairman  
(Hon. Christopher Omulele) took the Chair]*

#### THE FINANCE BILL

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we are in the Committee of the whole House to consider the Finance Bill (National Assembly Bill No.22 of 2022).

*(Clause 2 agreed to)*

*Clause 3*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chairlady, you have a proposed amendment to this clause.

**Hon. (Ms.) Gladys Wanga** (Homa Bay, ODM): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, Clause 3 of the Bill be amended in the proposed paragraph (i) by inserting the words “excluding financial derivatives traded at the Nairobi Securities Exchange” words immediately after the word “derivatives”.

The import of the amendment is to exclude financial derivatives traded at the Nairobi Securities Exchange from the Income Tax Act. The financial derivatives at the capital markets is a very nascent development. Stakeholders asked that it be given time to grow. When we discussed the proposal with the National Treasury, it was clear it is not a target of Income Tax. The tax mostly targets forwards and swaps.

I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 3 as amended agreed to)*

#### *Clause 4*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chairlady.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by deleting Clause 4 and substituting therefor the following new clause-

Amendment of  
section 4A of Cap. 470.

4. Section 4A of the Income Tax Act is amended in—

(a) in subsection (1) by deleting subparagraph (ii) (a) of the proviso and substituting therefor the following new subparagraph:

(a) where a foreign exchange loss is realized by a company whose gross interest paid or payable to related persons and third parties exceeds thirty per cent of the company’s earnings before interest, taxes, depreciation and amortisation in any financial year.

(b) in subsection (4) in the definition of the term “company” by inserting the words “or non-deposit taking microfinance businesses under the Microfinance Act, 2006, entities licensed under the Hire Purchase Act and persons exempt under section 16 (2) (j) (iii)” immediately after the expression “Banking Act (Cap.488)”.

This amendment seeks to define the term ‘company’ for purposes of foreign exchange loss or gain by excluding non-deposit taking businesses and hire purchase businesses. It also harmonises the provision with Section 16(2)(j) on thin capitalisation.

I beg to move, Hon. Temporary Deputy Chairman.

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*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 4 as amended agreed to)*

*(Clauses 5 and 6 agreed to)*

*Clause 7*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chairlady, you have a proposal to delete the clause.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 7.

The deletion is intended to retain Income Tax incentive for creation of family trusts since this provision was enacted by the House only last year.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 7 deleted)*

*(Clauses 8 and 9 agreed to)*

*Clause 10*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chairlady, you have a proposal to amend the clause.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended—

(a) in the proposed paragraph (C) by inserting the words “and non-deposit taking microfinance businesses” immediately before the word “under”;

(b) by inserting the following new paragraphs immediately after paragraph (C):

- (D) entities licensed under the Hire Purchase Act;
- (E) non-deposit taking institutions involved in lending and leasing business;
- (F) companies undertaking the manufacture of human vaccines;
- (G) companies engaged in manufacturing whose cumulative investment in the preceding five years from the commencement of this provision is at least five billion shillings;
- (H) companies engaged in manufacturing whose cumulative investment is at least five billion shillings:  
     Provided that the investment shall have been made outside Nairobi City County and Mombasa County.
- (I) holding companies that are regulated under the Capital Markets Authority Act.

This is aligning the amendment that we have already made – the one on thin capitalisation. The amendment is the definition of the term “company” for purposes of thin capitalisation by excluding non-deposit taking businesses, hire purchase businesses and companies involved in manufacture of human vaccines.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 10 as amended agreed to)*

*(Clauses 11, 12 and 13 agreed to)*

#### *Clause 14*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, you have a proposed amendment to this.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 14 by deleting the word “of” appearing immediately after the words “individual’s life” and substituting therefor the word “or”.

Hon. Temporary Deputy Chairman, these amendments are just for purposes of grammatical clean-up. We are just cleaning up the grammar. Instead of “or”, they said “of”. It is just that clean-up.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 14 as amended agreed to)*

*Clause 15*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, you have a proposed amendment to this together with Hon. Kiarie, Hon. Ichung'wah and Hon. Aden Duale. We will begin with the one by the Chair. Proceed.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 15 by inserting the following paragraph immediately after paragraph (a)-

(aa) by inserting the following proviso to paragraph (j)—

Provided that in the case of a firm certified by the Nairobi International Financial Centre Authority that—

(a) invests five billion shillings in Kenya; and

(b) the transfer of such investment is made after five years,

the applicable rate shall be the rate that was prevailing at the time that the investment was made.

Hon. Temporary Deputy Chairman, first, the Committee is proposing to retain the Capital Gains Tax as provided for in the original Bill at 25 per cent. Our neighbours have it at 30 per cent in Tanzania and 20 per cent in Uganda. The only proviso is on the issue of indexation, so that the property does not carry the inflation value. If it carries the inflation value, then it means you can be paying taxes on inflation instead of the actual value of the property. The proposal seeks to amend Section 34(1)(j) by introducing a proviso. This is meant to create certainty and promote investments through the Nairobi International Financial Centre by providing that any investments above Kshs5 billion certified by the Nairobi Investment Centre Authority when transferred after five years will be subject to the Capital Gains Tax rate that was prevailing when the investment was made, so that you do not, after five years, pay a different rate from the rate you paid when you invested, especially for high value investments. I ask my colleagues who have amendments in terms of reduction to bear with us on this one, so that we just retain it at 15 per cent.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have Hon. Waweru Kiarie, and then we have Hon. Ichung'wah, Member for Kikuyu.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Temporary Deputy Chairman, the reason I was moving this amendment without going into it word for word is because I believe that even people who are making these transactions today are making distress sells. So, I thought the principle should be for us to encourage more currency of business rather than stifle it.

However, I had a conversation with the Chair of the Committee and I was convinced only on the fact that the Committee had a searching spree around the region. They established what the rates look like in the other countries in East Africa. For that reason, I wish to withdraw this amendment.

Thank you very much.

*(Proposed amendment by Hon. John Kiarie withdrawn)*

*(Applause)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well. Hon. Ichung'wah Kimani.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. I had proposed to delete this amendment. However, I had consultations with Hon. Chair. I have also considered the issue that she has just raised on indexation. I wish she has a very firm commitment with the National Treasury on that particular issue of indexation, so that we can make sure that we do not tax people on values that are not real. We should also consider the inflation rates. Properties rise in value not only because they have risen in the actual value, but also because of time factor and inflation.

Therefore, with a very heavy heart, I have assured the Chair that I know the challenges the National Treasury faces in terms of revenue generation. However, we will revisit it next year in case the National Treasury does not bring into effect the question of indexation. As the Leader of the Majority says, *In shaa Allah*, which means God willing.

*(Proposed amendment by Hon. Kimani Ichung'wah withdrawn)*

*(Applause)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Well spoken, Hon. Ichung'wah. Hon. Duale, you have an amendment. You are next. It is just that you had not pressed the button.

*(Laughter)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, we were friends. I thought you had assumed me today. You are one of the best friends whom I have in this House.

*(Laughter)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): No. This is your chance.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Ichung'wah has never had a heavy heart. Hon. Temporary Deputy Chairman, my amendment is pro-poor. It cushions Kenyans by maintaining the tax on capital gains at the present 5 per cent rate. However, when we reach there, Hon. Chairperson has maintained the digital service tax at 1.5 per cent. This amendment basically supports the Big Four Agenda on housing. It protects the gains made on investment on transaction in certain sectors such as real estate. The Chair of the Committee has put a proviso in the insertion where she says that the Nairobi International Financial Centre Authority will invest Kshs5 billion in Kenya and transfer of such investment is made after five years.

Because I am convinced, but not because of heavy heart, I withdraw my amendment in favour of the Chair.

*(Proposed amendment by Hon. Aden Duale withdrawn)*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Thank you, Hon. Duale.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 15 as amended agreed to)*

*(Clauses 16, 17 and 18 agreed to)*

### *Clause 19*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair, you have a proposed amendment in this clause. Hon. Mboni will also move another amendment. So, we will start with Hon. Chairperson's first and then we go to Hon. Mboni.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 19 by-

- (a) deleting paragraph (a);
- (b) deleting paragraph (b);
- (c) deleting paragraph (c);
- (d) inserting the following paragraphs immediately after paragraph 60-
  61. Deemed interest in respect of interest free loan advanced to a company undertaking the manufacture of human vaccines.
  62. Payments made to non-resident service providers not having a permanent establishment in Kenya in respect of services provided to a company undertaking the manufacture of human vaccines.
  63. Compensating tax accruing to a company undertaking the manufacture of human vaccines.
  64. Dividends paid by a company undertaking the manufacture of human vaccines to any non-resident person.
  65. Income of a company undertaking the manufacture of human vaccines.

This amendment is related to an amendment we had made earlier on family trusts and we intend to retain the Income Tax incentive for creation of family trusts since the provision was only enacted last year. Surely, how do you enact it, sign it and remove it? Therefore, that is the reason for that amendment. I thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted be  
inserted, put and agreed to)*

**Hon. David Mboni** (Kitui Rural, CCU): Thank you, Hon. Temporary Deputy Chairman. The amendment to Clause 19 seeks to delete paragraph (a), (b) and (c). It is intended to retain Income Tax incentive for creation of a trust since the provision was only enacted in the Finance Bill, 2021.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): No. Hon. Temporary Deputy Chairman, I think Hon. Mboni is meant to move the amendments that you were meant to carry and this relates to Special Economic Zones (SEZs).

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): You were sleeping. Hon. Mboni does not sleep on the job. I have known him to be a very vigilant one. Let the Chair assist him.

**Hon. David Mboni** (Kitui Rural, CCU): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 19 by inserting the following paragraphs immediately after Paragraph 60-

61. Dividends paid by Special Economic Zone enterprises, developers and operators licensed under the Special Economic Zones Act.

62. Dividends paid by Special Economic Zone enterprises, developers and operators to any non-resident person.

The reason for this amendment is to encourage investment in Special Economic Zones enterprises, developers and operators to any non-licensed person.

I thank you.

*(Question of the further amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung'wah, Member for Kikuyu.

**Hon. Kimani Ichung'wa** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I rise to support that amendment by Hon. Mboni. The Special Economic Zones are, indeed, the way to develop other areas other than the capital city of Nairobi. More so, if we encourage investors to come to districts or areas outlying the capital city, it is the true form of devolution where you get investors. I want to encourage especially our county governments to work and encourage investors to invest outside Nairobi and, of course, also facilitate them in terms of infrastructure development.

I support.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Thank you very much, Hon. Ichung'wa. Hon. Nassir.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Asante sana, Mhe. Naibu Mwenye Kiti wa Muda. Nimekaa hapa tangu saa hizo si kwa sababu ya jambo lingine. Panapo majaaliwa, tukiwa katika hatma ya kuendeleza Serikali ya Kaunti ya Mombasa, haya mambo ya *Special Economic Zones* ndio jambo muhimu zaidi. Nataka kwanza kuchukua fursa kukupongeza wewe kwa kuweza kuleta Mswada huu wa kuwa kampuni hizi ambazo zitaweza kufanya biashara pale zisiweze kutozwa ushuru mwingi baada ya kuweza kupata ile faida mwisho wa mwaka. Muhimu zaidi, sisi kama Mombasa, tutakuwa na sehemu mbili kana vile Dongo Kundu na Miritini na la muhimu sana ni vijana wetu waweze kupata ajira.

Asante sana na panapo majaliwa, hizi sheria zitawafaa. Nilisikia akisema kuwa hapa ni watu wanafanya sheria lakini wale ambao wanafaa kuunda sheria hawaziundi hapa; wanapigapiga fujo tu kule nje mitaani na maskani. Wanajijua wenyewe. Lakini nawakumbusha tu. Ni saa tatu kasorobo usiku tuko hapa kulinda rasilimali. Ntoa pongenzi kwa kila aliyepo hapa. Lakini wale hawako hapa, kesho watasema kuwa bei ya bidhaa imepanda.

Asante Naibu Mwenyekiti wa Muda.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): That is a very good contribution, Hon. Nassir. Hon. Martin Owino, Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Temporary Deputy Chairman, I want to join in supporting this also. When we got Independence, we made a mistake by just building and creating jobs in cities and that has brought all the slums around. This will decongest Nairobi and other urban areas and improve household income in the rural areas.

I support.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 19 as amended agreed to)*

*Clause 20*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair. Hon. Kiarie you also have a proposed amendment to this.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 20 -

- (a) in paragraph (a) by deleting the words “through the national grid” and substituting therefor the words “for supply to the national grid”; and,
- (b) by deleting paragraph (b).

That is just a correction of the language used by deleting (b). The intention of (b) was to limit the areas of investment where the investment allowance applies. We are deleting it because it was limiting it to say, hotels and just a few investment areas. We thought this would not be an objective way. If your investment cannot be anywhere else other the place where you are making it and they gave the example of, if you are making investment in geothermal and you are doing it in Naivasha, you will not get any investment allowance because they say that investment can only be in that area. We thought that would be subjective and discouraging. What of educational institutions? There is need to move investments away from Nairobi and Mombasa and to

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encourage investments to be in Garissa, Homa Bay, including investments in hostels, educational institutions among others.

So, this is why we have deleted that particular amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I see interest from Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I agree with and support the Chair. This is contrary to the Constitution. It is discriminatory. Why do you limit investments to Mombasa and Nairobi and not Kisumu, Nakuru or Naivasha? It is the contradiction from the National Treasury. We are building a railway to Naivasha, of course, the people of Mombasa currently in power agreed to close their port. We will revert it back when the opportunity comes. But it is very good for investments go to every part of the country based on devolution. There are many Kenyans who want investment outside Nairobi to decongest the city and even do more industrial parks outside. That is how international big cities and countries work. I support.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Waweru Kiarie, Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Temporary Deputy Chairman, I am extremely excited that the Committee is also seeking to delete paragraph (b).

It is important we get pilot cities in this country away from the CBDs. Remember this is a proposal that is not even six months. If we have investors coming into this country, for example, wanting to put up a Sandton City like what happened in Johannesburg, if we start giving uncertainty by limiting the investment allowance, the investors will not have confidence with the economy of this country and even how we make laws around the economy.

I was also seeking to have Clause 20 of the Bill amended by deleting paragraph (b).

Thank you very much, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well spoken. The purpose of this is that we must give investors who are diversifying our economy into the regions some certainty that their investment will have a sound legal backing and not be changed every so often.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 20 as amended agreed to)*

Hon. Kiarie, your amendment stands taken care of.

*(Proposed amendment by Hon. John Kiarie withdrawn)*

Clause 21

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**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): I beg to move:

THAT, the Bill be amended by deleting Clause 21 and substituting therefor the following new clause-

Amendment of the  
Third Schedule to  
Cap.470

21. The Third Schedule to the Income Tax Act is amended –

(a) in paragraph 2, by inserting the following new items immediately after item (m)—

(n) in respect of a company operating a carbon market exchange or emission trading system that is certified by the Nairobi International Financial Centre Authority, fifteen per cent for the first ten years from the year of commencement of its operations;

(o) in respect of a company operating a shipping business in Kenya, fifteen per cent for the first ten years from the year of commencement of its operations;

(b) in paragraph (3) –

(i) by inserting the following item in paragraph (e) immediately after item (i)–

(ia) in respect of interest and deemed interest arising from a bearer bond issued outside Kenya of at least two years' duration and interest, discount or original issue discount, seven and a half per cent of the gross sum payable;

(ii) by inserting the following new item immediately after item (q)—

(r) in the case of gains from financial derivatives, fifteen per cent of such gains.

This proposed amendment is meant to provide preferential Corporate Tax for firms certified by the Nairobi International Financial Centre Authority to operate carbon market exchange. This will, in addition, promote uptake at the Nairobi International Financial Centre Authority facilities, and also promote efforts to reduce greenhouse gas emissions hence slow down global warming and the resultant effects to the environment. That is the purpose of that amendment as was presented to us by several stakeholders who felt that we need to promote that line.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I will give the first opportunity to Hon. Kiarie followed by Hon. Duale and then Hon. Ichung'wah, Member for Kikuyu. Hon. Kiarie, you will go first.

**Hon. John Kiarie** (Dagoretti South, JP): I did not want to contribute to this. I was indicating that my amendment is coming up. I cede the Floor to Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Am I supposed to contribute or it is about my amendment? I have an amendment to Clause 21.

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**The Temporary Deputy Chairman** (Hon. Christopher Omulele): If you wanted to contribute to the proposal by the Chair, you could. But I will also give you an opportunity to move your amendment.

**Hon. Aden Duale** (Garissa Township, JP): Let me go on record that my amendment is on Digital Service Tax, the proposed increase of the Digital Service Tax from 1.5 to 3 per cent. If the Chair has retained the 1.5 per cent, I am home and dry. So, I drop mine.

*(Proposed amendment by Hon. Aden Duale withdrawn)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): That is what I thought. That is why I was giving you the opportunity. Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I rise to support, especially on the question of global warming and greenhouse emissions. But on the second bit, the Chair did not speak to it in respect of companies operating shipping business. I had hoped to hear what that is all about because that amendment has two provisions. One is on greenhouse gases and the second one is on shipping business. There are people in this country who have monopolised business in shipping. It is on the Order Paper. This is not yours. This is the Chair's amendment.

Allow the Chairlady to consult because as Hon. Duale was saying, there are particular families in this country who have monopolised and created cartels in the shipping line business. We must not be party to passing amendments that may assist a few people at the expense of taxpayers and KRA's ability to generate revenue. It is only yesterday that we were told that public debt is good because it is about using other people's money. It is unfortunate the person who said that is the President, forgetting that that money is other nations' taxpayers' money and that you will use Kenyan taxpayers' money to repay the loan. It is not free money. I am saying this in protection of the shipping line business, so that nobody again uses State capture on this House.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung'wah, you have taken a different tangent. My interest is for the Chairlady to agree with Hon. Duale on how to handle this clause. My understanding is that we have deleted the proposed Section 21A. The National Treasury proposed to make the rate 3 per cent while Hon. Duale proposed to retain it at 1.5 per cent. If the proposal has been deleted, then Hon. Duale should be comfortable. Please, go on record on that.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, the essence of that deletion is to retain Digital Service Tax at 1.5 per cent. When you increase Digital Service Tax on non-residents, it will hurt them. When tax is increased on a company like Uber, it passes on the tax to their drivers. The rate of 1.5 per cent was introduced last year, so we should give it time rather than increase it too soon.

With respect to a company operating shipping business in Kenya, there is a 15 per cent tax for the first 10 years. The proposal seeks to provide a preferential rate of Corporate Tax for firms operating shipping lines in Kenya. This is aimed at boosting the growth of the country's blue economy, which has great potential of generating economic value and employment that remain untapped. That is the justification Hon. Ichung'wah was looking for.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I really thank the Chair for, at least, agreeing with me on Clause 21(a). I want my good friend, the next Governor for Mombasa, to listen to me. There are big terminologies used in this country to favour

few people. The blue economy is a big terminology. The fishermen in Lamu, the Coast region and in Lake Victoria are suffering and you want to give tax incentives to shipping lines. Who are the owners of these shipping lines? Who are they? Maybe it can be Maersk owned by the Dutch and many other companies. If you use the words “blue economy”, go and help the fisherman. Buy him equipment. Tell the Coast Guard to stop harassing him. Buy him safety gear. I think this House must work for the people. My good sister from Lamu knows it. All of us know it. Our people cannot even get access to the sea. Beach people have built along it. So, let us not talk about the blue economy and you are hiding under it.

I oppose that section of the shipping.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung’wah.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I also rise to vehemently oppose. I indicated and that is why I sought clarification, because this is preferential, as the wording in that particular provision goes. It is preferential not to Kenyans, but to a select a group of Kenyans. I completely associate myself with the sentiments of Hon. Duale. If this was to help the ordinary Kenyan fishermen and fisherwomen, then I would support, but the people transacting shipping business in this country are well known and we know them. Therefore, we cannot use this House. That is why I oppose it. It is also good for the Members to appreciate that we are not raising more taxes here. We are telling the Government not to collect taxes from the rich, but to punish an ordinary fisherman fishing in the shores of Lake Victoria, the Indian Ocean and the banks of River Tana. This is a bad amendment. I really beg the Chair of the Departmental Committee on Finance and National Planning to drop this particular amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Sharif.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Temporary Deputy Chairman, I understand Hon. Duale’s and Hon. Ichung’wah’s sentiments. However, it is important for us to read what this says. It says: “in respect of a company operating a shipping business in Kenya”. It is not necessarily a shipping line. The shipping business is wide. A shipping business could as well mean shipyards. There is a difference between a shipping line and a shipping business. Mombasa needs to grow as a place where the shipping business has to grow. A few days ago, I was in Mombasa and I went into a shipyard. The first question that I asked is why the place was not as busy as it should be. I asked another question. Mombasa has the capacity to make ferries. The ferries that are being operated in Uganda and Tanzania today were built proudly in Mombasa. One of the major reasons why the new ferries that are currently being used came from Turkey is because of tax regimes.

Hon. Temporary Deputy Chairman, look at what the words say. You need to look at this amendment in a holistic approach. Look at what the words say. The amendment says that the Third Schedule to the Income Tax Act is amended in respect of a company operating a shipping business in Kenya, 15 per cent for the first 10 years from the year of commencement of its operations. We encourage new people to come on board. I know the words that are used in this amendment aim at the existing institutions or companies. We want more people to be involved in shipping businesses.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nassir, make your point.

**Hon. Abdullswamad Nassir** (Mvita, ODM): I wish to support the amendments that have been brought by my sister. As someone who needs to have investors in Mombasa, I request not just a shipping line. I had issues with shipping lines in this very House. Shipping businesses need to be supported.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well. Hon. Murugara Gitonga, Member for Tharaka.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Chairman. I join Hon. Ichung'wah and Hon. Duale in opposing this proposed amendment. Clearly, we are talking about shipping business which is restricted to the area of shipping. In actual fact, we should talk about all the businesses that are involved in either the blue economy or seas and oceans where these businesses are carried out. We should talk about what will benefit the ordinary persons, including fishermen and other seafarers who gain their livelihoods from such blue economy business and not just a class of business. We know for sure that shipping business is for the rich. We should not only aid the rich, but also the entire citizens of the country to benefit from these reliefs.

**Hon. Abdullswamad Nassir** (Mvita, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nassir, you have spoken to this amendment. This is the way I propose to go forward. I will give the Chair an opportunity to speak to all the different ascertains by different Members. Hon. Chair.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman. I thank the Members of this House. As we made the Finance Bill last year, we introduced exemptions for fishing nets and fishing equipment to look at our fishermen. They supported those amendments. That is part of the efforts of this House to grow the blue economy, especially looking at the fisherman. However, the fishermen do not operate in isolation.

For example, there is a new port in Kisumu right now. You expect investments in the shipping business, so that people can build boats. There are no ferries between Mbita and Mfangano, and Luanda K'otieno and Mbita right now. That is just an example in my county. We have a budget in this Budget for purchase of a ferry for that purpose. However, we are being asked to go and buy a ferry from Tanzania, Dubai or Turkey. Surely, should we be buying ferries from those far lands? We should build our shipping business here, so that we can grow it and incentivise it. When I speak about it, I do it with passion because I represent a lakeside economy. We know what we are doing. We did it for the fishermen last year. They are now enjoying exemptions on fishing equipment. We want to build our ferries, ships and grow our blue economy here. I beg the Members who are opposing this amendment to support it. I beg this House to support us, so that we can grow our shipping business here.

*(Applause)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, I will now proceed to put the Question in this way. I will put the Question for Clause 21(a) and 21(b) separately.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 21 as amended agreed to)*

*New Clause 13A*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chairperson, move amendment to New Clause 13A.

**Hon. (Ms.) Gladys Wanga** (Homabay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 13-

Insertion of new section into Cap.470.

13A. The Income Tax Act is amended by inserting the following new section immediately after section 28-

Special Operating Framework Arrangement.

28A. A company which –

- (a) is engaged in business under a special operating framework arrangement with the Government;
- (b) incorporated for purposes of undertaking the manufacturer of human vaccines;
- (c) whose capital investment is at least ten billion shillings, shall be subject to the rate of tax specified in the special operating framework arrangement with the Government.

This amendment is to provide that companies involved in manufacture of human vaccines shall enjoy tax benefits under the special operating framework arrangement with the Government. We have had an issue here when foreign nations only supported their own populations first before the rest of the world when it came to human vaccines. We are moving towards manufacturing our own, so that we also take care of our own populations, and then the region.

I beg to move.

*(Question of the new clause proposed)*

*(New clause was read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let us have Hon. Martin Owino, Member for Ndiwa.

**Hon. Martin Owino** (Ndiwa, ODM): Thank you Hon. Temporary Deputy Chairman. I really support this. We have seen it with COVID- 19 and as a Member of the Committee on Health I must say we need to motivate our firms to start producing human vaccines. When things get tough, each country takes care of their own and we have seen it. With this motivation, I think we will even have our own bio vaccinations coming up and others will spring to produce more vaccines.

I support this whole-heartedly.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chairperson.

*New Clause 18A*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 18—

Amendment of  
Section 133 of Cap.470

18A. The Income Tax Act is amended in section 133 by deleting the expression “31st December, 2022 and substituting therefor the expression “31st December, 2023”.

This is to extend application of Paragraph 24E of the Repealed Schedule of 31<sup>st</sup> December 2022 in relation to investment allowances.

*(Question of the new clause proposed)*

*(New Clause was read the First Time)*

*(Question, that the new clause be  
read a Second Time, proposed)*

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

*Clause 22*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, you have a proposal to this. Hon. Ichung’wah and Hon. Duale have proposals to it.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

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THAT, the Bill be amended by deleting Clause 22 and substituting therefor the following new clause-

Amendment  
of section 5 of  
No. 35 of 2013.

22. Section 5 of the Value Added Tax Act, 2013 is amended-

(a) in subsection 2 by inserting the following new paragraph immediately after paragraph (aa)-

(ab) in the case of the supply of liquefied petroleum gas including propane, eight percent;

(b) in subsection (9) by deleting the words “sell or provide services, goods or other property” and substituting therefor the words “sell goods or provide services”.

This is reduction of Value Added Tax on liquefied petroleum gas from 16 per cent to 8 per cent. You remember that during the Second Reading of the Bill on petroleum products, due to the public outcry on the prices of gas, this House committed itself strongly to reduction of VAT on LPG. This is what we are trying to execute through the Finance Bill to protect our people from the growing cost of living.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung’wah, Member for Kikuyu to speak to this.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. The amendment by the Chair and mine are quite similar, therefore, I support and consequently withdraw mine since we are basically looking at the same thing, which is reducing VAT to 8 per cent. It is cognisant of the fact that the cost of living in this country has gone up very high. Therefore, we need to mitigate against some of the rising cost by reducing VAT.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Jessica.

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Thank you, Hon. Temporary Deputy Chairman. I support the reduction of VAT. I thank the Chairperson of Departmental Committee on Finance and National Planning.

As Hon. Ichung’wah has said, it is true the cost of living has gone up because of the cost of products that the common *mwananchi* use. I support and thank her for that. I want to be on record and I express this to my people of Kibwezi East.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Do they use gas?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale, Member for Garissa Township.

*(Hon. (Ms.) Jessica Mbalu spoke off record)*

Member for Kibwezi East, whatever he said was not captured.

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM): Yes, Hon. Ichung’wah is right in asking whether the people of Kibwezi East, Makueni County, use gas. Indeed, I use and they all use it. That is why we are reducing VAT to 8 per cent.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 22 and substituting therefor with the following New Clause-

Section 5 of the VAT Act, 2013 is amended in sub-section 2...

On the second one on LPG, my amendment is similar to that of the Chair of reducing VAT on LPG from 16 per cent to 8 per cent.

That is why we are here at 9.00 p.m., those of us who represent the hustler nation. We have been sitting here since 2.30 p.m. I have blood of the hustler nation. You can share it with me.

My other amendment is to reduce VAT on petroleum products from 8 per cent to 4 per cent. The reason is that this House has the powers to reduce the price of fuel in our country. The levies and taxes for every litre of petrol, diesel and kerosene, more so for our poor people, account for about 70 per cent. This is a taxation and budget-making House. We do not need the President or the Government to do it. We can reduce it ourselves. Because it is give and take, and the Chair has approached me, let me drop that amendment.

*(Applause)*

It is in exchange for LPG. If you cannot have it all and you have half, I am used to *nusu mkate*. I am not like Ichung’wah who joined Parliament the other day. I am among those, when we won and they refused to give us the full Government in 2008, we asked for a half. I know where a half is. Now I am going for the full loaf. I drop.

*(Proposed amendment by Hon. Aden Duale withdrawn)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale, you have gone the full cycle. Hon. Members, taking into consideration the time, allow me to put the Question.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

The one by Hon. Duale having fallen by the way and agreeing with the Chair in the spirit of give and take, the one by Hon. Ichung’wah falls.

*(Proposed amendment by Hon. Kimani Ichung’wah withdrawn)*

*(Clause 22 as amended agreed to)*



*(Clause 23 agreed to)*

*Clause 24*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, you have something on this.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): I beg to move:

THAT, Clause 24 of the Bill be amended—

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

(b) in subsection (3), by inserting the following new paragraph immediately after paragraph (e)—

(f) in the case of a participant in the Open Tender System for the importation of petroleum products that have been cleared through a non-bonded facility, the custom entry showing the name and PIN of the winner of the tender and the name of the other oil marketing company participating in the tender:

Provided that the input tax that may have been incurred by an oil marketing company participating in the Open Tender System before the coming into force of this provision shall be claimed within twelve months after this provision comes into force.

(b) by inserting the following new paragraph immediately after paragraph (b)—

(c) in subsection (5), by inserting the following new paragraph immediately after paragraph (d)—

(e) such excess arises from input tax under subsection (8):

Provided further that a registered person who, since the commencement of subsection (8) but before the commencement of this provision, has a credit arising from input tax under subsection (8) may apply for the refund of excess tax within twelve months from the commencement of this provision.

This amendment arises from what was (f) in the Bill, which read that the commissioner can ask you to provide any other documentation that he may require for purposes of validating your Input Tax. This is for refunds. Stakeholders presented, and we found it was too open. When we engaged KRA and the National Treasury and asked why they were making that provision, they said they were making it because there are instances, especially when it comes to the open tender system for import of petroleum, where only one company does importation and it is kept in bonded warehouse yet other companies are part of that transaction. When they want to claim their input, they are not able to do it properly. That is why they were making that very wide provision.

So, we decided that instead of making it that wide because stakeholders were complaining that you can go for your refund and the commissioner tells you to bring your grandfather's birth certificate and then you are stranded, we thought we should specify the circumstances under which you should be requested for other documents. That is what we have specified there for purposes of importation of petroleum and petroleum products. Further, for official aid-funded products, it is critical to allow claim of Input Tax considering that this is cash that manufacturers can reinvest and grow the sector.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted be  
inserted, put and agreed to)*

*(Clause 24 as amended agreed to)*

*(Clauses 25 and 26 agreed to)*

#### *Clause 27*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended in Clause 27 by inserting the words “in respect to a turnover threshold of five million shillings” immediately after the words “digital marketplace”.

This is to clarify the threshold for registration of people in the digital marketplace. It is to protect very small businesses in the digital marketplace. There are people trying to sell their wares who do not make much money. If you ask all of them to register, you will kill them even before they start businesses. That is why we propose a threshold of Kshs5 million.

I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 27 as amended agreed to)*

#### *Clause 28*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chairlady, you have a proposal to amend the clause. Hon. Kiarie and Hon. Duale also have amendments. We will start with the amendment by the Chairlady.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended in Clause 28—

(a) in paragraph (a) by inserting the following subparagraph immediately before subparagraph (i):

- (ia) by deleting paragraph 26.
- (b) in paragraph (a) by inserting the following subparagraph immediately after subparagraph (i):
  - (iab) by inserting the following new paragraph immediately after paragraph 66—

66A. Bioethanol vapour (BEV) Stoves classified under HS Code 7321.11.00 (cooking appliances and plate warmers for liquid fuel).
- (c) by deleting subparagraph (ii) appearing in paragraph (a);
- (d) in paragraph (a) (iv) in the proposed paragraph 144 by deleting the words “and whose total value comprises at least thirty per cent of parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya” and substitute therefor the words “and whose ex-factory value comprises at least thirty percent of local content” and by inserting the words “Where local content means “parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya”
- (e) in paragraph (a) (iv) by inserting the following new paragraph immediately after paragraph 144-

145. Taxable goods, inputs and raw materials imported or locally purchased by a company which is—

  - (a) engaged in business under a special operating framework arrangement with the Government; and,
  - (b) incorporated for purposes of undertaking the manufacture of human vaccines; and whose capital investment is at least ten billion shillings, subject to approval of the Cabinet Secretary for the National Treasury, on recommendation of the Cabinet Secretary for health.
- (f) deleting paragraph (b);
- (g) by inserting the following new paragraph immediately after paragraph (b)—
  - (c) in Part II by deleting paragraph 32.
  - (d) in Part II by inserting the following new paragraph immediately after paragraph 33—

34. Taxable goods, inputs and raw materials imported or locally purchased by a company which:

    - (a) is engaged in business under a special operating framework arrangement with the Government; and,
    - (b) is incorporated for purposes of undertaking the manufacture of human vaccines; and whose capital investment is at least ten billion shillings, subject to approval of the Cabinet Secretary for the National Treasury, on recommendation of the Cabinet Secretary for Health.

This is for purposes of including fertilisers in the zero-rated list. We had a big debate on this matter because the cost of fertiliser has risen dramatically from Kshs2,500 to almost

Kshs6,000. This House must play a role in trying to contain the cost. That is why we are proposing zero-rating.

The other amendment is on clean cooking stoves. This is for purposes of protecting the environment. Paragraph (c) of the amendment proposes to delete maize flour, cassava flour and wheat flour that were being removed from the exemption list. We are retaining them on the list. Even though it was said it was a clean-up issue, we do not want to take the risk of removing them from the exempt list, because there might be a problem of cost at that point. We want to protect our people. We believe in protecting our people. We do not shout about it, but we believe in doing just that.

I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Question, that the words to be left  
out be left out, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale, you will note that you are making exactly the same proposals as the Chairlady. So, if her proposals have passed, yours have also passed. I will give you an opportunity to speak to it after Hon. Kiarie has moved his amendment.

Hon. Kiarie, you may move your amendment.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Temporary Deputy Chairman.

I beg to move:

THAT, Clause 28 of the Bill be amended in paragraph (a)(iv) by inserting the following new paragraph immediately after paragraph 144—

145. Such capital goods the exemption of which the Cabinet Secretary may determine to promote investment in the manufacturing sector:

Provided that the value of such investment is not less than two billion shillings.

I would even want the attention of the Chair on this one because I am coveting her support on this amendment. Hon. Temporary Deputy Chairman, if you would intervene, so that Hon. Duale does not interrupt the Chair because I covet the Chair's support on this one. I am proposing this because our guiding principle should be to promote investment especially the international investment. By including this amendment, we shall be going a long way in supporting efforts like the ones that are in our guiding principle, the Vision 2030, whose targets we are not meeting. I ask the House to support me on this amendment because it means well.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well spoken, Hon. Kiarie.

*(Question of the amendment proposed)*

I will give the first opportunity to the Chair of the Departmental Committee on Finance and National Planning.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman. Since this is to promote investment in the manufacturing sector, an area which we are lagging behind, and it is of not less than Kshs2 billion, I agree with our brother, Hon. KJ. I support.

*(Question, that the words to be inserted, be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I go by your direction. I thank the Chair. When I read the Committee's Report, I thought the Chair was hoodwinking me and hoodwinking the House that she will allow this Government, which has two months to go, to tax maize flour, cassava and all this. Already the people of Kenya are dying under this regime. So, I just put this amendment for the benefit of doubt. It looks like she is also looking for the next Government because I was wondering how the next governor for Homa Bay, a serious campaigner of *Baba*, can support a regime and taxation measures that will kill the poor of the poor hustlers. I want to say it without fear of contradiction that when Hon. Gladys tabled this Report, we did a Press conference, which was not in bad taste. It was just to make sure that we are aware. That is why Hon. Ichung'wah and I and many others are sitting here. I thank you that tonight, we leave here when bread will be cheaper or at the same price, when maize will be cheaper and when the people of Kenya will, at least, suffer and become sufferers in the next two months and after two months, a government of the people and more so of the poor, will be installed *In Shaa Allah*.

*(Clause 28 as amended agreed to)*

*Clause 29*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There are three proposals to this. The Chair will be first, followed by Hon. Kimani Ichung'wah and Hon. Aden Duale.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 29 of the Bill be amended-

(a) by deleting paragraph (a);

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

(aa) in Part A by inserting the following paragraph immediately after paragraph 22-

23. The exportation of taxable services in respect of business process outsourcing.

24. Fertilisers of chapter 31.

25. Inputs or raw materials locally purchased or imported by manufacturers of fertiliser as approved from time to time by the Cabinet Secretary responsible for Agriculture.

There was a proposal to delete maize flour from the zero-rated goods. So, we are deleting that deletion to protect consumers and *mwananchi*. We mean what we say. When Hon. Duale called for the Press conference, I wondered the reason for doing so. We mean what we say in the Azimio Coalition.

The other proposal here is to put into action the zero-rating of fertiliser and the issue of exportation of taxable services. This is important because many young people, even in universities, export services of writing essays and thesis. This also happens to our professionals such as auditors. Zero-rate is for purposes of export. So, we are also including the exportation of taxable services in the zero-rate column. The issue of fertilisers is very important. We want our farmers everywhere in this country from Kitale, Ndhiwa, where Hon. Martin Owino comes from, West Pokot, Tiaty or Molo, to know that we care about their interest. They should not necessarily listen to rhetoric. This is where the law is made. It has been made to take care of them.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The first opportunity is for the Member for Molo, Hon. Kimani.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Kimani.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Member for Molo.

**Hon. Kuria Kimani** (Molo, JP): Thank you, Hon. Temporary Deputy Chairman. To my senior colleague, Hon. Aden Duale, there is another Hon. Francis Kuria Kimani, Member for Molo. It is a very proud moment for this 12<sup>th</sup> Parliament and for me, as a Member of the Departmental Committee on Finance and National Planning. We are seated here at 9.30 p.m. doing what we need to do for Kenyans.

Hon. Temporary Deputy Chairman, for all those amendments that you have passed, the people of Molo Constituency can be sure that they will purchase fertiliser at a cheaper price. Hopefully, once this Finance Bill is passed, the Executive will make sure that fertiliser is available, so that we do not play our role of reducing the price of fertiliser, which will not be available.

Secondly, the amendments that you have passed to reduce taxes on maize flour, wheat flour and cassava flour mean that we have lowered the cost of living for Kenyans. In addition, we have lowered the price of LPG. This is a very proud moment for the Members of the 12<sup>th</sup> Parliament and for me, as a Member of this Committee.

With those remarks, I support the Chair's amendment. Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimani, the Member for Kikuyu.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, let me first support the amendment by Hon. Wang'a. As Hon. Duale has said, we, indeed, doubted that she and the Committee meant well. We thought they would hoodwink Kenyans. We were very keen on ensuring that, indeed, the cost of living for Kenyans comes down. Therefore, I support the amendment.

Hon. Temporary Deputy Chairman, can I move my amendment to Clause 29 or we first finish this one?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Not yet. Let us first deal with the Chair's amendment.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Therefore, Hon. Temporary Deputy Chairman, I support the amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nassir, do you have something to say?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Temporary Deputy Chairman. I want to first all congratulate my sister, the Chairperson of the Departmental Committee on Finance and National Planning. She is a proud Member of the Orange Democratic Movement (ODM). Despite the handshake, she has stood her ground today and reverted anything that would make the cost of food go up. It is understatement to say to the farmers out there that the cost of fertilisers has been brought down. Therefore, mine is to congratulate the Committee on making these amendments. To those who feel that public *barazas* and abusing people on public platforms is where laws are made, this is actually where laws are made by making the difference in people's lives right in this House at this moment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, just relax. The laws made here are made for all Kenyans. They are not made for any section of the population. Therefore, all of us are participating in it. We may have different ideas about parties, but when we are here, we legislate for Kenyans.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted be  
inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung'wah you may now move yours.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you Hon. Temporary Deputy Chairman. I beg to move:

THAT, Clause 29 of the Bill by amended by inserting the following new paragraph immediately after paragraph (a)-

(ab) in Part A by inserting the following paragraph immediately after paragraph 22-

23. The supply of books.

However, it has a slight variation of the wording to read, "the supply of school textbooks." This seeks to exempt school textbooks from Value Added Tax. It is again in recognition of the very high cost of living that parents are under.

In addition, let me also state that I am moving this amendment on behalf of a very diligent Kenyan from Kikuyu Constituency, a gentleman by the name Waweru Njoroge, who hails from Ondiri Village in Kikuyu. Mr. Njoroge has been very keen in trying to push this amendment over the last three to four years. I think I first saw this amendment in the year 2018 and all along, the National Treasury has not been very supportive of this amendment. I saw it in the Report of the Committee on Finance and National Planning and he sent very many petitions to my constituency office. In addition, he has been to my office here in Nairobi seeking support. He has tried to lobby very many Members of Parliament to support this. Therefore, I opted to move this amendment on behalf of Mr. Waweru Njoroge.

Allow me to use this opportunity to again, as I did during the Second Reading of this Bill, commend the member of the public who has been very diligent and consistent in participating in public participation fora on the Finance Bill, on the Budget Estimates and various other Bills including those that touch on the education sector. Mr. Waweru Njoroge has been an active participant and this is the true act of patriotism.

I want to encourage many other Kenyans to follow the steps of Mr. Waweru Njoroge. I, therefore, beg that we support this amendment to help in bringing the cost of textbooks down. He had also included periodicals and magazines, but I tried to persuade him to drop them for the time being and move that amendment to cover school textbooks.

I beg to move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Maero, Member for Butula.

**Hon. Joseph Oyula** (Butula, ODM): Thank you, Hon. Temporary Deputy Chairman. I support the additional amendment introduced by Hon. Ichung'wah. You know we have many poor people whose children cannot go to school because of the inability to provide the required books. These days books are very expensive and parents are suffering particularly those poor families. Therefore, I totally support that amendment that relates to school textbooks.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair, Committee on Finance and National Planning.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I thank Hon. Kimani Ichung'wah for carrying this amendment. Indeed, the petitioner came before our Committee, and we discussed and the issue of books is noble. We also discussed it elaborately with the National Treasury. The category is too broad and it is not coded. There is no description or definition of a school book. Any book can become a school book. The Government purchases textbooks *en masse* for our primary schools. After that consideration, passing this amendment might not be useful unless we have a clear description of what we are dealing with here. If we just say school books and there is no definition of that and there is no code for it, we will end up in a taxation confusion.

So, I oppose this amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung'wah had moved it in an amended form to say school textbooks. That is what has been captured on record here.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): What are school textbooks? How do you know? Any book can become a school textbook if the school says it should be bought. So, Hon. Temporary Deputy Chairman, for purposes of taxation, it does not make sense for us to have that categorisation without it being properly defined. If it is not properly defined, we may pass it here, but it will only result in confusion. It will not result in the relief that Hon. Ichung'wah is looking for. I urge the petitioner to carry out more research. This is the reason the Committee did not carry the amendment. Let more research be carried out. We have also asked the National Treasury to outline specifically the codes, so that when we exempt, we know exactly what we are exempting.

I oppose, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wangwe.



**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairman. Whereas I am a supporter of Article 43 of our Constitution which empowers our children to have good education, on this one, I am afraid I do not support. In the same Budget which we passed, 25 per cent of it is money allocated to the Ministry of Education and almost 60 per cent of it is going to capitation part of which forms the procurement of school textbooks. It will be naïve for us to approve this given that the Government buys the same textbooks especially where Hon. Ichung’wah has moved in an amended form narrowing it down to school textbooks which refers exactly to what the Government is buying. It is a replication.

Therefore, I beg to oppose.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nassir.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Temporary Deputy Chairman, this is an excellent and extremely noble idea. But how I truly wish that Hon. Kimani would have defined it. Textbooks could be defined in two ways. Does it mean books that have been approved by the Ministry of Education for the curriculum? This is tax regime and unless it is coded, this is something the good person, and I heard Hon. Ichung’wah say that the person is a good citizen who has good intentions, but the problem is...

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nassir the gentleman is known as Waweru Njoroge, a very diligent man.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Mr. Waweru Njoroge did a very noble and beautiful thing. But do we want to turn the beauty of his thoughts and ideals to be misused by some unscrupulous individuals? That is the question this House needs to ask itself. This is subject to major abuse. Unless there is going to be some form of definition and I wish and hope Hon. Ichung’wah, when he finishes consulting, will reword it and amend it further. He needs to give some form of guideline, so that we do not end up hurting the common Kenyan.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Mboni.

**Hon. David Mboni** (Kitui Rural, CCU): Hon. Temporary Deputy Chairman, thank you. For any goods or services to be taxed, there is what we call a harmonised system. A harmonised system is a standardised numerical method of classifying trading products. When we talked to Waweru, because I was in that Committee and talked to KRA, school textbooks are not classified. They do not have codes. Therefore, to pass here will bring challenges on how they are going to be taxed.

Thank you very much. I do not support that amendment.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kiarie, Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Temporary Deputy Speaker, this really worries me because there is a common quote which goes “if you want to kill a good idea, give it to a committee to work on it”. The idea here is a brilliant one. The question about whether it is textbooks that are gazetted by the Government or not, we all know what the definition of a textbook is. That is not my point. My point is this: We are all talking about textbooks that Government provides to schools. We forget that there are millions of our children who do not go to public schools. There is a shortage of public schools. There is a shortage of land on which to build public schools, especially in urban centres in a constituency like Dagoretti South, which borders the constituency from where Mr. Waweru Njoroge comes. We have more students in private academies than in public schools. In fact, the exodus is still continuing to an extent that we will have a point where the national average of students in public schools will be lesser than the ones in public schools, if we do not take such measures. I believe we can convince fellow Members that

this is an extremely good idea. Let us not fall into that trap where we are told by this very common quote that “if you want to kill a good idea, give it to a committee to work on it”. I hope even this Committee can see the sense that Waweru had, more so, the amendment as moved in an amended version by Hon. Kimani Ichung’wah.

I beg to support.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, I think you need to make a decision one way or another. You must remember that we still have two Motions which must be debated and completed tonight. We are not even half way on this one. So, let me put the Question.

*(Question, that the words to be inserted be inserted, put and negatived)*

*(Clause 29 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung’wah, I wish to say that this is a very good idea that I think this House should take up and see how we can refine it, so that it fits within the prescription of our laws. It is a good idea. It is done. Do not worry. I think we are together on this. We will confer and see how we do this. This Waweru Njoroge has personally even spoken to me on this. I think it is something we can consider. Let us make progress.

Hon. Duale, I know you are now comfortable. Your amendment was taken care of.

**Hon. Aden Duale** (Garissa Township, JP): The Chairlady has taken care of my amendment. I trust you, but you are in partnership with my old friends - people of deceit and conmanship. I thought they would infect you. But you have lived to your word as Gladys Wanga, not as a party. Thank you very much for saving the people of Kenya. I had to stay around late to make sure that those who eat *unga* and those who use fertilizer are not affected. I am happy. But be careful with my former partners.

*(Proposed amendment by Hon. Aden Duale withdrawn)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well. Let us make progress.

*Clause 30*

**Hon. (Ms.) Gladys Wanga** (Homa Bay, ODM): Thank you, Hon. Temporary Deputy Chairman.

I beg to move:

THAT, the Bill be amended by deleting Clause 30.

This is the clause that relates to the Tax Appeals Tribunal. It provides that before filing an appeal, an appellant shall deposit with the Commissioner 50 per cent of the disputed tax in a special account at the Central Bank. This was probably the most contested clause of this Bill. Taxpayers felt it is punitive because, sometimes, the Tribunal imposes a charge that is way higher than the actual one.

The spirit is to deter people who go to the High Court for sport. The formula is highly contested and so, the Committee agreed with the submissions of stakeholders. Members of the Committee are here. We agreed to shelve this proposal until it is thought-out properly so that its

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objective can be met. In any case, the High Court already provides for security of a certain amount of the contested amount.

Finally, the Tax Appeals Tribunal Act was amended by this House less than six months ago. Amending it again might still get us to court.

I beg to move the deletion.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I will allow two Members to contribute, so that we can make progress. The first will be Hon. Gitonga.

**Hon. George Gitonga** (Tharaka, DP): Thank you. I am not particularly convinced that we should do away with the Tax Appeals Tribunal. It is one of the tribunals that are provided for in the Constitution.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Gitonga, we are not doing away with the Tribunal. What is being proposed to be deleted is the proposal that litigants who wish to appeal would have to deposit 50 per cent of the judgment amount in an account at Central Bank, so that they can get a hearing.

**Hon. George Gitonga** (Tharaka, DP): My understanding of that proposal is that it is onerous and a burden. Therefore, it should be supported.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I will allow Hon. Duale to speak because he had a similar proposal.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I agree with the Chairlady. The proposal to deposit 50 per cent of disputed taxes before a hearing is illegal and unconstitutional. I am sure if we passed it, the courts would have nullified it. We are protecting the constitutional rights of the Kenyan people.

Secondly, if we could have agreed with this amendment by the National Treasury mandarins, this was an infringement on the independence of the Judiciary. It is not a function of the Commissioner of KRA or income tax or VAT. The constitutional right of every Kenyan will be decided whether guilty or otherwise by the third arm which is the Judiciary. So KRA cannot usurp, using this House, the powers of the High Court. So, Hon. Gladys Wanga, this is one of the reasons that also made us go to the Press conference because our business is to protect the Constitution and make sure it is fully implemented and not amended just like the way the Building Bridges Initiative wanted to do it. Kenya Kwanza will stand for full implementation of the Constitution 2010 which I had an opportunity to participate in this august House during the 10<sup>th</sup> Parliament.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Shadrack Mose.

**Hon. Shadrack Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Chairman. I also want to actually support the Chair on this because if we made a mistake to pass it as a House, that will be really gagging the rights of aggrieved citizens of this country. As Hon. Duale has said, this could have been extremely unconstitutional and actually immoral because you will deny parties an opportunity to ventilate their rights once they are aggrieved by the same. I thank the Chair for coming out very clear on this.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Mose, I agree with you that this would amount to what is called in the practise of law, tethering access to justice.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 30 deleted)*

*Clause 31*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimani Ichung'wah, Member for Kikuyu, has an amendment to this.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. If you allow me, before I move that amendment, to consult with the Chair for one second because I think we had similar amendments on this one.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Please do.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): If you also allow me on the one that we have just passed... That particular amendment was dangerous.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I will not allow you, Hon. Ichung'wah. You know the rules.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I was begging your indulgence because I remember when the particular provision was read out, we had a consultation with you, the Cabinet Secretary (CS) and I. We promised him that day that we would never allow that particular provision to see the light of day. I am glad that you are the Chair today. As much as I know you cannot vote today, I am certain had you had the opportunity to vote, you would have voted with us to protect Kenyan taxpayers from the excesses especially of a regime like this one that has been using KRA...

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung'wah, you should be consulting on the amendment.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): That has weaponised KRA against Kenyans. I thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung'wah, now move your amendment to Clause 31.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I was taking that time to also allow the Chair to consult with the Clerk. We have consulted and I beg to drop this because she has a similar amendment word for word with mine. This is so that I can allow her to move.

*(Proposed amendment by Hon. Kimani Ichung'wah dropped)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, are you ready now for Clause 31?

**Hon. (Ms.) Gladys Wanga** (Homa Bay (CWR), ODM): Hon. Temporary Deputy Chairman, Clause 34.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Clause 31.

**Hon. (Ms.) Gladys Wanga** (Homa Bay (CWR), ODM): Hon. Temporary Deputy Chairman, we made that proposal on inflation adjustment. However, there was the complication of computation on whether, at the end of two years, you adjust inflation for both the years or one year?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chairperson, I do not think that you have a proposed amendment in Clause 31.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I am just trying to explain to Hon. Ichung'wah that the amendment was withdrawn.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung'wah, then you need to move your amendment.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, he can move his amendment.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): What is out of order, Hon. Duale?

**Hon. Aden Duale** (Garissa Township, JP): Is there music here? Do you hear a sound?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Is there music?

**Hon. Aden Duale** (Garissa Township, JP): Yes. It is from the Member for Kiambu. If he wants to listen to music, the clubs are open. We are in the august House.

*(Laughter)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale, I did not hear the music. I know the Member for Kiambu.

*(Hon. Aden Duale spoke off-record)*

Just relax!

*(Hon. Jude Njomo spoke off-record)*

Hon. Jude, just relax!

*(Laughter)*

I know the Member for Kiambu as a very diligent and scrupulous Member of this House. He does not infringe the rules of this House easily. If some sound escaped from his gadget, maybe, it was accidental. It cannot be that he wanted to infringe the rules. Member for Kiambu, relax. Let us make progress, please. Member for Kikuyu, you need to move your amendment.

*(Hon. Jude Njomo spoke off-record)*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 31 and substituting therefor the following new clause-

Amendment of  
section 10  
of No 23 of  
2015.

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31. Section 10 of the Excise Duty Act, 2015 is amended –

(a) in subsection (1) by deleting the words “every year” and substituting therefor the words “every two years”;

(b) by inserting the following proviso to subsection (1)-

Provided that the Commissioner may, by notice in the Gazette and with the approval of the Cabinet Secretary, exempt specified products from inflation adjustment after considering the circumstances prevailing in the economy in that year in respect of such products.

This is on the revision of Excise Duty Act, 2015 to delete the words “every year” and substitute therefor the words “every two years” to allow for the inflation adjustment to be done every two years instead of every year.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair of the Departmental Committee on Finance and National Planning.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I would like to ask Hon. Ichung’wah to agree with the reasoning that I stated. There will be a complication on the computation of that inflation adjustment. It is computed every year. So, after two years, will you compute it on the basis of both years? Some of the industry players also came back and said that we should do it every year for ease of computation. I want to ask Hon. Ichung’wah, if he is willing, to withdraw it and allow us to proceed, given the time constraints.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung’wah.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I was consulting with the legal officer. I was told that it is done every October. For that reason, which is only three months to come, it will occasion a loss in revenue for this particular year. As I said, I am very keen not to allow Government to lose revenue because it may end up forcing them to continue borrowing. You already know my position on the question of public debt. There are those who are saying that public debt is using other people’s money, which I disagree with completely. It is using other people’s money that you must pay back. Therefore, I withdraw my amendment to protect our revenues.

*(Proposed amendment by Hon. Kimani Ichung’wah withdrawn)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well.

*(Clause 31 agreed to)*

*(Clauses 32 and 33 agreed to)*

*Clause 34*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair, you have a proposed amendment together with Hon. Aden Duale and Hon. Kimani Ichung’wah. We will start with the amendment by Hon. Chairperson.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Clause 34 of the Bill be amended –

(a) in paragraph (b) -

(i) by deleting sub paragraph (iii);

(ii) by deleting sub paragraph (v);

(iii) in sub paragraph (viii) by deleting the expression “13,296.6” and substituting therefor the expression “15,296.6”;

(iv) by deleting subparagraph (xii);

(v) in subparagraph (xiv) in the new tariff description by deleting the word “White chocolate” and inserting the words “Imported White chocolate, including”;

(vi) by deleting sub paragraph (xvi);

(vii) by deleting subparagraph (xvii);

(viii) in subparagraph (xviii) by inserting the word “Imported” immediately before the word “Articles” in the tariff description “Articles of plastic of tariff heading 3923.30.00”

(ix) by inserting the following new sub paragraph immediately after sub paragraph (xix)-

(xx) by deleting the following tariff description and the corresponding rates-	Tariff description	Rate of Excise Duty
		25%

Imported furniture of any kind used in offices, kitchen, bedroom and other furniture

(xxi) by deleting the following tariff descriptions and the corresponding rates and substituting therefor the following-

Commodity code	Raw Materials	Excise duty
3907.91.00	Imported Unsaturated polyster	10%
3907.50.00	Imported Alkyd	10%
3905.91.00	Imported Emulsion VAM	10%
3903.20.00	Imported Emulsion - styrene Acrylic	10%
3905.19.00	Imported Homopolymers	10%
3906.90.00	Imported Emulsion B.A.M	10%

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

(d) in Part II-

(i) by inserting the following proviso in paragraph 4A-

Provided that this paragraph shall not apply to horse racing.

(ii) by inserting the following new paragraphs immediately after paragraph

5-

6. Excise duty on fees charged by digital lenders at a rate of twenty per cent.

7. Excise duty on importation of cellular phones, shall be at ten per cent of the excisable value.

Hon. Temporary Deputy Chairman, it is in several parts.

Therefore, in part (b)(i) by deleting (iii) which the Committee rejects the increase of Excise duty on bottled water. We ask that it is retained as it is.

The Committee is also not in agreement with the increase on beer. The reason for this is that it is beer alone and not spirits, wines or the others. This is in consideration of the issue of the supply chain.

We had several sorghum and barley farmers presenting before the Committee. In fact, bar owners and all manner of Kenyans came before the Committee on this issue. That is why we thought the way we did because we have increased it so much in the last so many years. When the data was presented to us, it showed that actually we have increased it so much that our income is now reducing. For example, if you look at our borders, people would rather drink beer across the border and not in Kenya. Tanzania has exceeded us now in terms of the number of breweries. The next regime has an important task in terms of the tax policy on this matter, whether you tax too much and lose revenue or whether you tax averagely and gain.

Therefore, we also propose that because farmers have been contracted from all over the country to supply sorghum and barley for the production of beer, increasing Excise duty will increase the price of beer and reduce demand for sorghum and barley. Therefore, this applies for the next application. In part four:

(i) in sub-paragraph (viii) by deleting the expression “13,296.6” and substituting therefor the expression “15,296.6”;

We are deleting part (xii) because it an increase on motorcycles. Therefore, we would like it to be retained at 12,185 and not increased to 13,403.

In sub-paragraph xiv, there is the issue of protecting locally manufactured chocolate. Therefore, we are inserting the word 'imported' so that Excise duty there will apply to imported chocolate, but not to locally manufactured chocolate. This is because it is employing many of our people here. The same relates to locally manufactured glass. Excise duty was being imposed on both imported and locally manufactured glass. We only have two glass manufacturers and with this kind of Excise duty, they cannot compete.

Last year, we imposed Excise duty on imported bottles except those imported from the East African Community because when we had imposed duty on those imported from the EAC, some companies in Tanzania went to the East African Court of Justice and got a favourable judgement. Therefore, we only left those from the EAC.

However, there was a proposal to include locally manufactured glass. Therefore, we are exempting locally manufactured glass.

On xviii, it is a clean-up of the codes. There is a new insertion there on the issue of imported furniture which inadvertently got in last year and the result, of course, was going to be the logging. So, that is what is being corrected there.

Hon. Temporary Deputy Chairman, paragraph (21) is on the issue of imported paints. In paragraph (d), we are making addition of Excise duty charged by digital lenders at the rate of 20 per cent. We have also included Excise duty on importation of cellular phones that shall be 10 per cent of the excisable value.

Last year, in retaining the amounts, we separated the betting lines to 7.5 for four lines. We want to retain it at 7.5 for the four lines instead of consolidating it at 20 per cent for one line. We retain it at 7.5 for four lines and it comes to 30 per cent.

Those are the clauses and I beg to move.

*(Question of the amendment proposed)*



**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I will give the first opportunity to the Member for Molo, Hon. Kuria Kimani.

*(Hon. Kimani Ichung'wah laughed)*

**Hon. Kuria Kimani** (Molo, JP): Thank you, Hon. Temporary Deputy Chairman. I do not know why Hon. Ichung'wah seems amused.

On the increase in Excise duty, we need to be careful about how much we increase so that we collect more revenue. There is one economist called Laffer who came up with the Laffer curve, where once you increase the rate of tax, you collect more tax. But you collect more tax until a point where any further increase in the rate of taxation will lead to less tax being collected. That is where we are on these particular items that the Hon. Chair has moved we delete. If we want to solve the issue of collecting more taxes and reducing borrowing, we must collect more. But the way to collect more is not necessarily periodically and every time increasing the Excise Duty. That is why I rise to support this amendment by my Committee and that is proposed by the Chair.

Lastly, we considered the motorcycles. That a *boda boda* rider called Mabado in Elburgon is able to afford a motorcycle through lowering the rates that the National Treasury had proposed to increase.

I support that.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Jude Njomo, Member for Kiambu.

**Hon. Jude Njomo** (Kiambu, JP): Hon. Temporary Deputy Chairman, one of the suggestions the Chair has made today is to decline any increase in taxation of beer. It has been said several times that every time a customer drinks a beer, he buys one beer for the Government. We would not like the Government to take more beer to be very drunk.

*(Laughter)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): That is very interesting, Hon. Temporary Deputy Chairman. I also rise to support the Chair, Hon. Gladys Wanga. It is also said that if you milk a cow to the veins, a kick is eminent. Overtaxing Kenyans does not mean we are making more money. In fact, we are killing ourselves and killing our economy.

I am so happy that water has not been touched. Water is life and it is basic. I am also happy that beer is not considered as the end product. How about farmers? Sometimes, those companies throw what we are taxing them back to farmers. So, I support this. I agree with Hon. Kimani over there. We should not really increase taxes. What we should do is to increase the tax base so that many can pay more taxes that are affordable.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): That is called bottom-up.

**Hon. Martin Owino** (Ndhiwa, ODM): There is nothing like bottom-up in this country.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nyenze, Member for Kitui West.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to also support the Chair, especially the fact that taxation of production of beer is not the only end product. There is sorghum and barley, which are involved

in the production. If we overtax those, we are taxing our farmers. They are the ones we want to protect. I support the proposal from the Chair.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, what Hon. Martin said is true. If you want to increase revenue in any country, you expand the tax base. You create a business environment. That is what the Kenya Kwanza team calls bottom-up. You empower the people at the bottom. Once they make money, they pay taxes. The KRA will collect more. When we collect more, we will not borrow. When we do not borrow, we will not mortgage the Kenya Ports Authority to the Exim Bank of China.

Our policy is straightforward. It is practical. I heard the Chair saying that there are people who cross the border to Uganda to drink beer. I can tell you there are people who cross the border to Somalia to drink tea because sugar is cheaper in Ethiopia and Somalia. They cross in the morning, they take their tea and *chapati* across the border and they come back. Those are many Kenyans. Very soon, the whole population will cross, apart from the few who are elitist and rich. We must save the poor in two months. We must save the many people at the bottom. That is by voting for the Kenya Kwanza government.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kimani, I will allow you. Just hold on for a second. We will have Hon. Ndirangu Waihenya, Member for Roysambu.

**Hon. Isaac Ndirangu** (Roysambu, JP): Hon. Temporary Deputy Speaker, we were petitioned by farmers, particularly from Molo, Njoro, Timau, Elburgon, Kitui, Tharaka-Nithi and other parts of the country. Several of the *legal* farmers came to us and canvassed for our help because they rely on barley and sorghum as their cash crop. We found that the moment you increase Excise duty on beer, it means there will be less demand, less people will be taking it, which also ends up limiting the uptake of sorghum and barley. That, in turn, means there will be less income and less revenue for farmers in Karachuonyo, Kitui and Molo. It is in this respect that, by retaining Excise duty as it is, we will be encouraging our farmers to grow and supply more and retain the price of beer at affordable rates, which also helps us avoid the problem of illicit and unhygienic brews.

I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. In 2015, I moved the Alcoholic Drinks (Amendment) Bill, which sought to give remission on Excise duty on beer, especially the sorghum beer called Senator Keg. At that time, many people in Central Kenya, Nairobi and environs had been afflicted by illicit brews pandemic. The consequence of increasing taxation on beer is escalation of illicit brews. Having gone through the Report of the Committee and its amendments, I am persuaded to withdraw my first two amendments to Clause 34.

The intention of the increment in paragraph (c) of my amendment was to discourage rampant consumption of alcohol. I also appreciate that what are largely abused are fortified wines and spirits. There were some measures taken by National Authority for the Campaign Against Alcohol and Drug Abuse some years back. Indeed, the greater evil is not in beer. We need to

protect sorghum farmers. By the time I moved my Bill in 2015, sorghum farmers in Molo, Narok and Tharaka Nithi had petitioned this House.

I wish to move an amendment to the amendment by the Chairlady. Part (e) of my amendment relates to paragraph (b) (xvii). I want to move it in an amended form further to what is in the Order Paper. I beg to move:

THAT, Clause 34 of the Bill be amended in paragraph (b) (xvii) by deleting the rate of Excise of “Kshs2,500 “ and substituting therefor the expression “Ksh1,500 per kg”.

The part relates to nicotine products. I did contribute to this issue on the question of a product called “Lyft”, on which Hon. Jude Njomo had brought a petition, question or statement last year or last year but one. In the Bill, there was a proposal to increase the Excise duty to Kshs2,500. Currently, the duty is at Kshs1,250. I am seeking a marginal increment of Kshs250. This product has largely been abused especially by school-going children in secondary schools and sometimes even those in primary schools. It is a very addictive product. Unfortunately, very many people have been lobbying me about other products similar to “Lyft” that are being imported illegally. Therefore, the Government still has work to do in terms of stemming what is being imported illegally.

Two, I wish to withdraw paragraph (f) of the amendment on imported pasta. We had agreed with the Chair that I also move an amendment to my amendment which is part (g) and (h) that relate to ice cream and, just like the Chair said, on locally manufactured chocolates. We are promoting local industry and also the local dairy sector. Chocolates are manufactured using milk besides cocoa. It is the same with ice cream. These are products which are being manufactured locally and are supporting our milk farmers. By increasing Excise duty on ice cream, it may seem like it a luxury item but, I can assure you, Hon. Temporary Deputy Chairman, millions of our dairy farmers across the country are being supported by those people who are manufacturing ice cream locally. I, therefore, wish to move that particular amendment in (g) and (h) on ice cream.

Further, on the question of locally produced sim cards, it is to support the local manufacturing industry as we have said in other amendments. There are many people who are importing sim cards. Therefore, I am proposing to impose an Excise duty of Kshs50 per sim card to make those that are imported a little bit more expensive than the locally manufactured ones to encourage the consumption of locally manufactured sim cards. That is because we have industries.

*(Hon. Aden Duale spoke off-record)*

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, protect me from Hon. Duale. I am not moving a Bill. There were many amendments and I hope Hon. Duale has followed. I, therefore, beg to move as I drop those ones. I think in a give and take position. We have agreed with the Chair on many of those things.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, that long narration by Hon. Ichung’wah has the effect of seeking to amend paragraph (b)(xvii) and paragraph (c) of the proposals by the Chair.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof, be inserted, put and agreed to)*

We still have Hon. Kiarie. Hon. Kiarie, I am advised that because the Chair's amendments have been carried, yours have been taken care of. However, I will give you an opportunity to just say a word. It is the same to Hon. Duale too.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you, Hon. Temporary Deputy Chairman. I am quite largely in agreement with what the Chair has moved. My only contribution to this is actually on paragraph (k) where we are dealing with betting advertising. The only concern I had on this one is the fact that the justification the Committee gives on their proposal on betting advertising is that it would be transferred to the public. However, it is very clear in my mind how advertising works.

First, advertising is the industry of excesses. Secondly, the advertising tax that would be imposed here is not translatable to the consumer.

Hon. Temporary Deputy Chairman, what is most important is the fact that we shall raise revenue out of betting advertising and fill up the gaps of some of the proposals that we have done earlier. It is justification enough for us to make sure that we amend paragraph (k) in the proposed paragraph 6, by deleting the expression "15 per cent" and substituting therefor the words "20 per cent".

My amendment is a small increase to 20 per cent in an industry that is a candidate for sin tax. I am asking the House to support my amendment in (k). I fully support the amendments by Hon. Chairperson on all the other paragraphs up to and including the taxes on cigarettes and all the other taxes. I also support Hon. Kimani Ichung'wah's proposal for Excise duty on imported ready-to-use sim cards, as we support locally manufactured sim cards.

Thank you very much, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): What am I supposed to do? Am I supposed to move my amendment? It is not yet time to do so.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Duale, you can move your amendment. Please proceed.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 34 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a) –

(aa) in paragraph 1 of Part 1 by deleting the following items–

2710.12.10	Motor Spirit (gasoline) regular per 10001 @ 20degC	Ksh19,505.00
2710.12.20	Motor Spirit (gasoline) premium per 10001 @ 20degC	Ksh19,895.00
2710.19.22	Illuminating Kerosene per 10001 @ 20degC	Ksh10,305.00

and substituting therefor the following new items–

Tariff No.	Tariff Description	Rate
2710.12.10	Motor Spirit (gasoline) regular per 10001 @20degC	Ksh17,505.00
2710.12.20	Motor Spirit (gasoline) premium per 10001 @ 20degC	Ksh17,890.00

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2710.19.22 Illuminating Kerosene per 10001 @20degC Ksh5,705.00

My proposed amendment reduces Excise duty on petroleum products: Gasoline Regular, Gasoline Premium and Illuminating Kerosene. I had a similar amendment earlier which the Chair convinced me to withdraw. She has disappeared with Petroleum Products (Amendment) Bill which is going for Second Reading. It cannot be traced. It is part of the problems that the Handshake has brought. However, I cannot fight this gracious lady. She has convinced me to withdraw my amendment. Let me do it. It is almost 11.00 p.m.

*(Applause)*

However, it is very sad. This House has the powers to reduce the prices of fuel, but it does not want to do it. It is very sad. When Kenya Kwanza forms the next Government in two months, we will do it. So, I ask Kenyans to bear with us. They have borne it for four years under this regime. You can do it for two months. There is light at the end of the tunnel.

I withdraw my proposed amendment.

*(Proposed amendment by Hon. Aden Duale withdrawn)*

*(Clause 34 as amended agreed to)*

*Clause 35*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you Hon. Temporary Deputy Chairman. I beg to move:

THAT, Clause 35 of the Bill be amended in the proposed new paragraph 17 by deleting the words “and whose total value comprises at least thirty per cent of parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya” and substitute therefor the words “and whose ex-factory value comprises at least thirty per cent of local content” and inserting the words “Where local content means “parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya”

This is so that we can allow manufacturers to base the calculation of 30 per cent on ex-factory prize and also define the term “local content”. So local content means parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kimani Ichung'wah, you have a proposal to delete.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Yes. Hon. Temporary Deputy Chairman. I beg to move:

THAT, clause 35 of the Bill be amended by deleting the proposed paragraph 15.

Mine is on 15 which relates to the issue of imported fertilised eggs.

For those who were here during the Second Reading, we did not support the exemption of Excise duty on fertilised eggs. I am sure Hon. Wangwe and Hon. Jude Njomo would agree with me because Hon. Wangwe comes from Western Kenya which is very close to Uganda. Hon. Jude Njomo comes from Kiambu County where I come from and we have a huge problem of imported eggs from our neighbouring countries. Some are imported from as far as South Africa to the detriment of our poultry farmers.

Therefore, this particular amendment as it is on the Order Paper seeks to delete the exemption of Excise duty on fertilised eggs that are being imported apparently upon recommendation by the Cabinet Secretary responsible for matters related to livestock. I would beg that we support the deletion of this particular issue. This is because, if this is left to the CS's sole discretion, he may as well recommend somebody who is importing fertilised eggs on the premise of them being for hatcheries and the same eggs will end up on your dinner tables to the detriment of our poultry farmers. Also, it is for the benefit of those people who have local hatcheries. I have an enterprise in Kikuyu. The Muguku Poultry Farm and many people know it is the pioneer hatchery in Kenya having fertilised eggs locally. Someone commented in our mother tongue (I will translate it into Kiswahili) as they came to appeal to me to support this particular deletion that: "*Tuna Jogoo wa kutosha wa kukanyaga kuku zetu*"

This is to ensure that the eggs are fertilised. In fact, we have the capacity to fertilise our own eggs locally. In the same endeavour as we are talking about support of local manufacturers, we should also support local poultry farmers.

I, therefore, request the members to support this particular amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 35 as amended agreed)*

*(Clause 36 agreed to)*

*Clause 37*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by deleting clause 37 and substituting therefor the following new clause-

Amendment of section 31 of No. 29 of 2015.

37. Section 31 of the Tax Procedures Act is amended by inserting the following proviso to subsection (4)-

Provided that in the case of value added tax, the input tax shall be allowable for a deduction within six months after the end of the tax period in which the supply or importation occurred.

It is essentially a clean-up.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): On a point of order.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): What is out of order Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman. Clause 37 is not a clean-up. It is a substantive amendment and the Chair should explain it to us. We have no problem. We will agree. It is not a clean-up. It is about an allowable deduction within six months.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, of course, the clause is substantive. But what is being amended is referring to a sub-section 5 which already exists. So, it is just a small clean up. But the section already exists in the Act.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 37 as amended agreed to)*

Clause 38

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 38 of the Bill be amended in the new Section 40 by inserting the following proviso in subsection (5)-

Provided that where a plan has been agreed between the taxpayer and the Commissioner, the liability shall be settled within the agreed payment plan before the notification by the Commissioner is lifted.

This amendment is to include a proviso related to an already existing plan between the taxpayer and the Commissioner.

*[The Temporary Deputy Chairman (Hon.  
Christopher Omulele) left the Chair]*

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

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 38 as amended agreed to)*

*Clause 39*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 39 of the Bill be amended in the proposed Section 47 by inserting the following subsection immediately after subsection (2)-

(2A) Where the Commissioner fails to ascertain and determine an application under subsection (1) within ninety days, the same shall be deemed ascertained and approved.

This relates to tax overpayment. What we are including here is that where the Commissioner fails to ascertain and determine an application under Section 1 within 90 days, the same shall be deemed ascertained and approved. Sometimes, you can be waiting for the Commissioner to ascertain and approve your overpayment but wait forever. If within 90 days he has not done it, your claim will be deemed to have been ascertained.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 39 as amended agreed to)*

*(Clause 40 agreed to)*

*Clause 41*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Chair, please, move your proposed amendment.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 41 of the Bill be amended in paragraph (d) in the proposed subsection (11) by inserting the words “failure to which the objection shall be deemed to be allowed” immediately after the words “notice of objection”.

This is the same spirit as the one we moved in Clause 39. Where you raise an objection, the objection shall be deemed to have been allowed after a certain period of time has elapsed.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*



*(Clause 41 as amended agreed to)*

*(Clause 42 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): The Mover to move New Clauses 38A and 38B.

*New Clauses 38A and 38B*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after clause 38-

Amendment of section 42 of No. 29 of 2015

38A. The Tax Procedures Act, 2015 is amended in Section 42 by-

- (a) deleting the word “seven” appearing in subsection (6) and substituting therefore the words “fourteen”;
- (b) deleting subsection (9) and substituting therefor the following new subsection-
  - (9) The Commissioner shall serve the taxpayer with a copy of a notice under this subsection (2), when serving the agent.
- (c) inserting the following new subsection immediately after subsection 13-

(14) No notice shall be issued under this section unless the Commissioner has either confirmed its assessment through an Objection Decision and the taxpayer has defaulted to appeal to the Tax Appeals Tribunal within the prescribed timelines.

Amendment of section 42A of No. 29 of 2015

38B. The Tax Procedures Act, 2015 is amended in Section 42A (1) by inserting the words “and registered manufacturers whose value of investment in the preceding three years from the commencement of this Act is at least three billion,” at the end of the proviso.

This is extending period of time required for the Commissioner to serve agency notice. In the case of New Clause 38A, from seven to fourteen days. The Commissioner shall serve the taxpayer with a copy of a notice under this subsection (2), when serving the agent and that, no notice shall be issued under this section unless the Commissioner has either confirmed its assessment through an objection decision and the taxpayer has defaulted to appeal to the Tax Appeals Tribunal within the prescribed timelines.

Under New Clause 38B, the amendment provides that the withholding tax shall not apply to the taxable value of zero-rated supplies and registered manufacturers whose value of investment in the preceding three years from commencement of the Act is, at least, Kshs3 billion.

*(Question of the new clauses proposed)*

*(New clauses read the First Time)*

*(Question, that the new clauses be read a Second Time, proposed)*

**Hon. Aden Duale** (Garissa Township, JP): This is a very important amendment. But I think a time has come that this House must bring an amendment to stop other entities which do not have the power of tax collection, whether they are called multi-agency, DCI and I do not who, who go and harass Kenyan businessmen, purport to arrest them and charge them. I think I am happy that KRA has its own system. The law is very clear. Let us give this mandate to KRA. The KRA has a way of talking to taxpayers. There is a procedure when they do not collect tax. But, this House should stop this idea. Businesses are suffering because of counterfeit and multi-agencies. These multi-agencies are not provided for anywhere in law. It is a phenomenon just like the Nairobi Metropolitan Services (NMS), where many military guys are serving in civilian positions. Their days are numbered. They have two months to go. After two months, there will be no multi-agency teams harassing Kenyan businesspeople.

I support.

*(Question, that the new clauses be read  
a Second Time, put and agreed to)*

*(The new clauses were read a Second Time)*

*(Question, that the new clauses be added to  
the Bill, put and agreed to)*

*(Clause 43 agreed to)*

#### *Clause 44*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Chairlady, please move your proposed amendment.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, Clause 44 of the Bill be amended in paragraph (a)—

- (a) by deleting subparagraph (ii);
- (b) by deleting subparagraph (iii);
- (c) by deleting subparagraph (iv);
- (d) by deleting subparagraph (v);
- (e) by deleting subparagraph (vi)
- (f) by deleting subparagraph (vii);
- (g) by deleting subparagraph (viii);
- (h) by deleting subparagraph (ix);
- (i) by deleting subparagraph (x);
- (j) by deleting subparagraph (xi);
- (k) by deleting subparagraph (xii)
- (l) by deleting subparagraph (xiii)
- (m) by deleting subparagraph (xiv)
- (n) by deleting subparagraph (xv)

- (o) by deleting subparagraph (xvi)
- (p) by deleting subparagraph (xvii)
- (q) by deleting subparagraph (xviii)
- (r) by deleting subparagraph (xix)
- (s) by deleting subparagraph (xx).

The idea that was proposed by the National Treasury, which they said was on recommendation by the Ministry of Agriculture, was to reduce levies on exported hides and skins. We thought that because we are putting up the Kenani Park in Athi River that is supposed to process hides and skins, we do not need to put incentives for export of raw materials. The Big Four Agenda has a manufacturing pillar. The excuse was that our hides and skins are not of good quality and so, they are being sent to West Africa for purposes of being used as a delicacy. We disagreed with this argument and said that we have to process them. If they are not of good quality, make them good quality by supporting our farmers, so that we can use the hides and skins for manufacturing. That is why we are proposing deletion of the proposed reduction of levies on hides and skins.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Duale has interest to speak.

**Hon. Aden Duale** (Garissa Township, JP): I am a pastoralist and this matter affects pastoralists. I support the amendment, but the problem is not even about exports. The problem is the untapped potential of skins and hides.

Annually, three million cattle are slaughtered in the country. In the Kenya Kwanza economic forum in Kajiado, the pastoralists said they now bury skins because nobody is buying them. Value addition and giving incentives to our tanneries is very important.

We should not reduce export levies. What happens at the Port of Mombasa is that our own hides and skins are taken for export under the guise that they are coming from the neighbouring countries like Uganda. People stamp KRA documents and pass through. There is a lot of work to be done. Imagine about 10 million pairs of shoes are used by children going to school every year. If we do not even bother about the other part of the population, we should produce the 10 million pairs of shoes for school children. That will generate enough revenue and create jobs for our people.

I support.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 44 as amended agreed to)*

*Clause 45*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 45 of the Bill be amended –

(a) in paragraph (a) by inserting the following new item immediately after item (xxva)-

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- (xxvb) goods imported for use in the construction and maintenance of human vaccine manufacturing plants as approved by the Cabinet Secretary for the National Treasury on recommendation of the Cabinet Secretary for Health.
- (xxvc) goods, inputs and raw materials imported by a company which is -
- (a) engaged in business under a special operating framework arrangement with the Government; and
  - (b) incorporated for purposes of undertaking the manufacture of human vaccines; and whose capital investment is at least ten billion shillings, subject to approval of the Cabinet Secretary for the National Treasury, on recommendation of the Cabinet Secretary for health.
- (b) in paragraph (b) by inserting the following new item immediately after item (viiia)-
- (viiib) goods imported for use in the construction and maintenance of human vaccine manufacturing plants as approved by the Cabinet Secretary for the National Treasury on recommendation of the Cabinet Secretary for Health.
  - (viiic) goods, inputs and raw materials imported by a company which is -
    - (a) engaged in business under a special operating framework arrangement with the Government; and
    - (b) incorporated for purposes of undertaking the manufacture of human vaccines; and whose capital investment is at least ten billion shillings, subject to approval of the Cabinet Secretary for the National Treasury, on recommendation of the Cabinet Secretary for health.

The idea here is to give incentive to companies manufacturing human vaccines and that is part of the agreement that was made for them to set up here and not in any other part of the region.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Temporary Deputy Chairlady, this is a very good and noble idea. I support it for the construction of vaccine facilities for humans. However, again, this should not be what we have seen in the last four years on conflict of interest where big people in Government want to use this House and the Finance Bill in getting tax incentives and bringing companies that are not in the country now, buy shares or are given shares politically and then they establish. We want local companies that are already in the country to be given that opportunity to produce vaccines in our country. This is a very good amendment. I support it but it should be for the good of the Kenyan businesses and enterprises that are involved in the pharmaceutical and vaccine production.

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 45 as amended agreed to)*

*(Clause 46 agreed to)*

*New Clauses 42A, 42B and 42C*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after clause 42—

Amendment of the section 7 of No. 29 of 2016.

42A. Section 7 of the Miscellaneous Fees and Levies Act, 2016, is amended in subsection (2A)—

- (a) by deleting paragraph (b) and substituting therefor the following new paragraph—
- (b) raw materials and intermediate products imported by manufacturers upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to industry.
- (b) by deleting paragraph (c) and substituting therefor the following new paragraph—
- (c) input for the construction of houses under an affordable housing scheme upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to housing.

Amendment of section 8 of No. 29 of 2016.

42B. Section 8 of the Miscellaneous Fees and Levies Act, 2016, is amended in subsection 2A—

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph—
- (a) raw materials and intermediate products imported by manufacturers upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to industry.
- (b) by deleting paragraph (b) and substituting therefor the following new paragraph—
- (b) input for the construction of houses under an affordable housing scheme upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to housing.

Amendment of section 9A of No. 29 of 2016.

42C. Section 9A of the Miscellaneous Fees and Levies Act, 2016, is amended by adding the following proviso—

Provided that this section shall not apply to currency notes and coins imported by the Central Bank of Kenya.

Hon. Temporary Deputy Chairlady, the justification is that currently, the preferential rates for IDF and RDL can only be enjoyed by manufacturers on imported inputs or raw materials after approval by the CS and upon recommendation by the CS from the relevant ministry. This procedure is lengthy and time consuming.

The lesson learnt is that the approval by the Cabinet Secretary for the National Treasury can be removed without compromising the revenue collection. This amendment was proposed by the National Treasury. They want to remove themselves from the process so that the relevant Cabinet Ministry proposes directly to the Kenya Revenue Authority, if they want any exemptions, so that it does not wait on the desk of the CS for the National Treasury for a long time. If it is the

National Treasury which is removing themselves, then it means that they have decided that it is possible to reduce the bureaucracy. That increases the ease of doing business.

I move the new clauses, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Thank you, Hon. Chair.

*(Question of the new clauses proposed)*

*(New clauses read the First Time)*

*(Question, that the new clauses be read a Second Time, proposed)*

*(Question, that the new clauses be read a Second Time, put and agreed to)*

*(The new clauses were read a Second Time)*

*(Question, the new clauses be added to the Bill, put and agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Next clause.

*(Clauses 47, 48, 49, 50 and 51 agreed to)*

*Clause 52*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Committee, move your proposed amendment. We also have a proposed amendment by the Chairperson of the Committee on Delegated Legislation.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 52 of the Bill is amended by deleting the proposed subsection (4) and substituting therefor the following subsection (4)-

(4) The automatic revocation period for statutory instruments issued under the Income Tax Act, the Stamp Duty Act, the Value Added Tax Act, 2013, Tax Appeal Tribunal Act, 2013 Excise Duty Act, 2015 and Tax Procedure Act, 2013 is hereby extended for a period of twenty-four months with effect from the twenty fifth day of January, 2023.

This amendment relates to the Statutory Instruments Act. The idea that is being proposed in the Bill is the revocation period for statutory instruments issued under the Income Tax Act, the Stamp Duty Act, the Value Added Tax Act, 2013, Tax Appeal Tribunal Act, 2013 Excise Duty Act, 2015 and Tax Procedure Act, 2013. The idea is to remove the provision for automatic revocation of the statutory instruments after a period of 10 years which is provided in the law. The Committee feels that this will take away the power of Parliament to examine these very important statutory instruments. We discussed with the Chair of the Committee on Delegated Legislation who also has an amendment to completely delete this amendment.

However, we reconsidered it. If we completely delete it, then these statutory instruments will automatically be revoked and Parliament is now closing. There will be a problem. We said that we would not give away the power. However, we will extend the time. Those that were lapsing now would be given an extension of one year.

After a further discussion, I would like to move a further amendment to make this period two years instead of one year with effect from 25<sup>th</sup> day of January 2023.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Chair, our Order Paper in Clause 52, it already indicates 24 months with effect from 25<sup>th</sup> day of January 2023.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Sorry, I was using my notes. This was updated.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): So, was it a further amendment? This is because the proposed amendment is in order.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): So, it is amended as per the Order Paper.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): So, for the purpose of record, Hon. Members and as the Chair had expressed, allow me to propose the Question.

*(Question of the amendment proposed)*

I can see the Hon. Member for Tharaka.

**Hon. George Gitonga** (Tharaka, DP): Thank you. I think the initial proposed amendment was a little bit out of line with the law. This is because Parliament is the sole law-making entity and to give that away to the National Treasury may have been out of order. This is the reason we are saying instead of having an entire deletion which we had proposed in the Committee, let us just extend time and give the National Treasury sufficient time to ensure that these statutory instruments are actually extended as per the Statutory Instruments Act when the time comes.

Therefore, the proposed amendment is quite in order.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well with that, Hon. Members.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed to)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, we had a proposed amendment by the Chairperson of the Committee on Delegated Legislation and now that the Chairperson's amendment has been carried, let us have the Chair make a comment.

**Hon. Kamket Kassait** (Tiaty, KANU): I have nothing more useful to add.

*(Proposed amendment by Hon. Kamket withdrawn)*

*(Clause 52 as amended agreed to)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well.

Next clause!

*(Clause 53 agreed to)*

*New Clause 21A*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I call upon the Mover to move the Second Reading of the New Clause 21A.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairperson. I beg to move:

THAT, the Bill be amended by inserting the following new Part immediately after Part II—

**PART IIA—STAMP DUTY**

Amendment of  
section 117 of  
Cap. 480.

21A. Section 117 of the Stamp Duty Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (p)—

(q) an instrument executed in favour of a mortgage refinance company.

Hon. Temporary Deputy Chairperson this relates to the Stamp Duty Act and it also relates to mortgage refinancing companies. This was a proposal that was made by the National Treasury. It is meant to promote the uptake of mortgage in the country by exempting instruments executed by mortgage refinance companies from Stamp duty.

In addition, there is no actual transfer of property from the primary lender to the Kenya Mortgage Refinance Company since the property will be released to the owner once the amount secured by the security is paid back. This was a proposal from the National Treasury and the Committee carried it. It was an additional proposal to the Bill.

*(Question of the new clause proposed)*

*(The new clause read the First Time)*

*(Question, the new clause be  
read a Second Time, proposed)*

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be  
added to the Bill, put and agreed to)*

*New Clauses 49A, 49B, 49C and 49D*



**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady,  
I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after  
Clause 49—

Amendment of the  
section 2 of No. 7 of  
1999.

49A. Section 2 of the Kenya Roads Board Act, 1999 is amended in the definition of “Fund” by deleting the expression “section 30” and substituting therefor the expression “section 31”.

Amendment of  
section 6 of No. 7 of  
1999.

49B. Section 6 of the Kenya Roads Board Act, 1999 is amended in subsection (2)—  
(a) by deleting paragraph (c) and replacing it with the following new paragraph—  
(c) manage the fund and allocate monies from the Fund in the following manner—  
(i) fifty per cent of the Fund shall be allocated in accordance with paragraph (d);  
and,  
(ii) fifty per cent of the Fund shall be allocated for the purposes of section 32A (2).  
(b) by deleting the words “from the fuel levy” appearing in the opening words of paragraph (d);  
(c) in paragraph (d) (i), by deleting the words “monies from the fuel levy” and substituting therefor the words “allocated funds”;  
(d) in paragraph (d) (ii), by deleting the words “monies from the Fund” and substituting therefor the words “allocated funds”;  
(e) in paragraph (d) (iii), by deleting the words “monies from the fuel levy” and substituting therefor the words “allocated funds”;  
(f) in paragraph (d) (iv), by deleting the words “monies from the fuel levy” and substituting therefor the words “allocated funds”;  
(g) in paragraph (d) (v), by deleting the words “monies from the fuel levy” and substituting therefor the words “allocated funds”; and  
(h) in paragraph (d) (vi), by deleting the words “monies from the Fund” and substituting therefor the words “allocated funds”.

Amendment of  
section 29A of Cap.  
131

49C. Section 29A of the Betting, Lotteries and Gaming Act is amended by  
adding the following new subsection –  
(3) This section shall not apply to horse racing.

Amendment of  
section 3 of No.9  
of 1993

49D. Section 3(2) of the Road Maintenance Levy Fund Act, 1993 is amended by inserting the words “to fund the construction of roads under the Road Annuity Programme and similar roads approved by the National Assembly” immediately after the words “Public Finance Management Act, 2012”

These clauses relate to the Kenya Roads Board Act and to enable it to manage the Kenya Roads Funds in a manner that allows it to better finance the construction and maintenance of roads.

This is to enable the Road Maintenance Levy Fund to be used to fund construction of roads under the Road Annuity Programme and similar roads approved by the National Assembly.

*(Question of the new clauses proposed)*

*(The new clauses read the First Time)*

*(Question, that the new clauses be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Member for Garissa Township, Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, this is a very good amendment because currently, close to 90 per cent of the fuel levy goes to road maintenance and 10 per cent goes to development of new roads. This amendment is balancing so that 50 per cent goes to development and 50 per cent goes to maintenance of roads. This is the good work of the Chair of the Departmental Committee on Transport, Public Works and Housing. Congratulations. The only problem is that he is a leader of a small party. He refused to be convinced by me.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I give this chance to the Chair, Member for Pokot South, Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Temporary Deputy Chairlady. This is a very progressive amendment and I thank the next governor of the great people of the lake.

As Hon. Duale has said, we are dividing the fuel levy into two: 50 per cent for development and 50 per cent for maintenance. With the 50 per cent, we will allow the Kenya Roads Board to leverage it on a bond so that they can borrow bonds and build our roads and use the other 50 per cent to maintain those roads.

Hon. Temporary Deputy Speaker, let me tell you the sad situation in our country right now in terms of roads. We have a pending bill of Kshs125 billion. In the 2022/2023 Budget, it is only Kshs53 billion that is allocated; meaning that we cannot build a road between now and 2023. We are not going to build any road. We cannot even pay pending bills from the Budget that we have passed.

Therefore, this is a very progressive proposal from the Kenya Roads Board and the Ministry so that they can be allowed to leverage that and even get a bond of Kshs300 billion and build our roads. In every road in this country now, contractors have moved out of the roads in the entire country. I thank the great next Governor of Homa Bay County. That is why we want to support ladies to become governors. I hope this one will be the first in the lake region. It is very progressive so that it can allow our people to enjoy roads.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well the next Governor. Hon. Members, let me give a chance to the Member for Dagoretti South to comment on this.

**Hon. John Kiarie** (Dagoretti South, JP): Mine will be a brief comment. We are all realising that we have a big problem in the development of infrastructure in this country, specifically the roads which are the arteries of the economy. We are in constituencies where contractors have folded up and left sites because they are claiming that they have not been paid. If there is an innovative way of raising money that can be used for the development of this infrastructure, specifically roads, then we welcome that. The only thing that we need to watch out as a House is that we will now have to play a bigger oversight role even on those agencies because we have had

situations where infrastructure bonds have been abused. So, we pray that road bonds will not be abused.

In totality, I think this is a very creative idea. It is an amazing amendment. I join the others who are commending the incoming Governor for Homa Bay County on this innovative amendment. We support it. Thank you very much, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): As we wish her the best, Hon. Members, allow me to put the Question. Member for Kitutu Masaba.

**Hon. Shadrack Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Chairman, for giving me a chance to also commend the Chair of the Departmental Committee on Finance and National Planning.

If we look at the amendment that is sought, it progressively moves in this one sense: If you look at the Budget for this year, the question of pending bills is closed. In fact, it does not leave money for development. That is why it is extremely necessary that we have this amendment which will lead to us having the bond. That bond will finally be able to first of all set aside funds to secure repayments. Therefore, this amendment is timely. We need to adopt it.

*(Question, that the new clauses be read  
a Second Time, put and agreed to)*

*(The new clauses were read a Second Time)*

*(Question, that the new clauses be added to  
the Bill, put and agreed to)*

#### *New Clause 51A*

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): I beg to move:

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

Amendment of section 15 of No. 23 of 2013.	51A. The Statutory Instruments Act, 2013 is amended in section 15 by inserting the following subsection immediately after subsection (3)-(4) Without prejudice to the provisions of section 12 and this section, any statutory instrument which contains provisions dealing with taxes, levies or fees, or has the effect of imposition of a charge on a public fund or variation or repeal of such charge, the National Assembly shall, within twenty-eight sitting days from the date of receipt of the notice under section 11, consider the notice and make a resolution either to approve or reject the notice.
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This amendment is to require that all statutory instruments dealing with taxes, levies and fees must be approved by a positive resolution of the National Assembly and not just the Committee on Delegated Legislation. This is a proposal that we already made. That, when it relates to statutory instruments dealing with taxes, levies and fees, they must come to the Floor of the House. They should not end up in the Committee on Delegated Legislation alone.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairlady, I rise to support although I would have preferred a longer time than the 28 sitting days. At times, we get short of time. The amendment I was really interested in has been overtaken by events.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): What is your point of order, Hon. Duale?

**Hon. Aden Duale** (Garissa Township, JP): I am just asking about the commencement date. Maybe, the Chairlady can tell us. You have to provide the date. Otherwise, it will take 14 days.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Duale, the commencement date is already provided for in clause 1.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I just wanted to be sure. Thank you very much.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Thank you for being so keen. I call upon the Mover to move reporting. We are through with consideration of the Finance Bill.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Finance Bill (National Assembly Bill No. 22 of 2022), and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Ichung'wah reporting to the House as the Chairperson. Give him the microphone.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Finance Bill (National Assembly Bill No. 22 of 2022), and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Can we have the Mover to move the agreement with the Report?

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said report. I request Hon. Wangwe to second the motion for agreement with the Report of the Committee of the whole House.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I do second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): For obvious reasons, I am not in a position to put the Question. I order that the putting of the Question be deferred.

*(Putting of the Question deferred)*

#### THE NATIONAL ASSEMBLY STANDING ORDERS

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): With that, we move to the Report of the Committee of the whole House on the Standing Orders. Can we have the Mover to move the reporting?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the National Assembly Standing Orders and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Wangwe, you can now move the agreement with the Report as the Mover.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Gladys Wanga to second the motion for agreement with the Report of the Committee of the whole House.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

I am not in a position to put the Question. The House is not quorated and, therefore, for obvious reasons, I order that the putting of the Question on the same be deferred.

*(Putting of the Question deferred)*

Next Order!

**BILL***Second Reading*

## THE KENYA ROADS BOARD (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Chairperson.

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Chair, we have an intervention from the Member for Ndhiwa.

**Hon. David Pkosing** (Pokot South, JP): It is very brief. It is just only 10 minutes. *Hii ni serikali ya Azimio.*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Member, have you withdrawn your intervention?

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I have withdrawn.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order Members! Hon. Members, I am sure that this House passed a Motion that we would go up to Order No. 17. So, the next Order is No. 16.

## THE KENYA ROADS BOARD (AMENDMENT) BILL

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Temporary Deputy Speaker. I seek your indulgence to defer Order No.16 until the next available opportune moment. Most of the items in this Bill were carried in the Finance Bill.

I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. The Chairperson of the Departmental Committee on Transport, Public Works and Housing has sought leave to defer the Kenya Roads Board (Amendment) Bill (National Assembly Bill No. 13 of 2022). It is accepted and it is so ordered.

*(Bill deferred)*

Next Order.

## THE TRAFFIC (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Committee on Delegated Legislation to move the Traffic (Amendment) Bill, (National Assembly Bill No. 60 of 2021).

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Temporary Deputy Speaker, I beg to move that the Traffic (Amendment) Bill be now read a Second Time.

This is a very simple Bill. As we, the Committee on Delegated Legislation, were going through our work, it became necessary to make this amendment. We took it upon ourselves because we want to make it practical to implement the Traffic Act. There are very simple matters. For instance, in order to improve road safety, this Bill provides for the outsourcing of motor vehicle inspection. The Government has capacity issues, especially with the National Transport and Safety Authority (NTSA). Therefore, it becomes apparent that the motor vehicle inspection is outsourced, in order that the vehicles that are on our roads are inspected.

The other matter that this Bill seeks to address is confusion, in terms of interpretation. For instance, there is the matter of speed limits. Exceeding 20 km per hour has been corrected in this Bill.

Finally, there are definitions. For instance, the word “Authority” has been defined properly in this Bill under the NTSA Act. This is a very simple Bill. I ask my colleagues to support it. I ask Hon. Murugara, who is a Member of my Committee, to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Murugara.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. Allow me to move and second the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You are not moving the Bill. You are seconding it. The Chairperson has already moved it.

**Hon. George Gitonga** (Tharaka, DP): Allow me to second the Bill which is absolutely a housekeeping one. This is so that what we come across while dealing with subsidiary legislation is brought into the main Act and the law becomes streamlined. This is why it has been pointed out that in some areas like in the original Bill as regards what is drunk driving; it is a little bit clumsy in that it says you can be under the influence of a drink.

There are various types of drinks that people partake. They can influence you whichever way. However, what we are prohibiting here are alcoholic drinks. Then we are to have some limits set. It is not just beyond limits. The limits must be prescribed and this is why it is proposed that from now henceforth we will have those limits prescribed by some law. We have also resorted to introduce some deletion including speed limits where they are saying, if you do the speed limits by more than 20 kilometers per hour, that is when you commit an offence. That is going out so that even if you exceed with 2 kilometers per hour, then you are actually in breach of the law.

We have also tried to streamline the training of drivers in public service sector whereby that compulsory training which was supposed to be done every two years, something similar to a refresher course, is now removed and a driver once qualified will actually continue being qualified until disqualified.

With those remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Waweru, Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much Hon. Temporary Deputy Speaker because this early opportunity also guarantees that I shall leave as early as possible because we are already very late. However, the reason why I stayed on is that I think that the patience of the Chairman and that of his Vice-Chair should be rewarded.

They have been extremely patient tonight as they were waiting for this opportunity to move this Bill. Therefore, some of us are here to give our moral support and support a good amendment

Bill, and this is the Traffic (Amendment) Bill of 2021. I only picked out two things that I think are critical and are persuading me to support this Bill. The first thing is the clarity that this amendment brings to the offence of speeding.

Hon. Temporary Deputy Speaker, when it was worded as it was initially, it was very hard to interpret whether the offence happens after you exceed the limit given or whether you are in contravention of the law when you exceed the provision above the speed limit. Now, with the new wording, it is now very clear what the offence is.

The other thing that I picked up is on Clause 4. This is where it becomes clear as to what it means to be incapable of having proper control of the vehicle. What has been provided so far has been very subjective. It is not scientific. You cannot put a finger on to what as to be incapable of having a proper control of the vehicle is. Up until now, with these new amendments, they are now giving a more objective way of testing what incapability and having proper control of a vehicle is.

Hon. Temporary Deputy Speaker, those are the two things that I picked up and thought are good amendments to a very good Bill. Thank you very much for that early opportunity. I think I have earned my rest now and can leave the Chamber.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member for Pokot South, Hon. Pkosing.

**Hon. Hon. David Pkosing** (Pokot South, JP): I thank you Hon. Temporary Deputy Chairperson for giving me this opportunity to speak to this Bill, which is concerning transport. When the Bill was brought to us in the Committee, we advertised it for public participation. It is very important we did that now that Kenyans are very concerned about public participation. It is a constitutional requirement and, of course, it is the work of the Committee.

Before I say what happened in public participation, this Bill in, simple terms, wants to do two things. One is to decentralise motor vehicle inspection. At the moment, it is centralised. We know that the National Transport and Safety Authority with no capacity has a problem. We cannot do all our inspection here in Nairobi and in some few centres in the country. That is why we have a problem with our cars. Most of our cars have not been inspected. Therefore, the motive of the Bill is to decentralise that function so that it is almost in every part of this country and can be accessible to Kenyans as provided for in the law. It is very important that, that is done. It cannot be done because NTSA cannot do it because they do not have the legal framework. That is why the Committee on Delegated Legislation saw it fit to come before my Committee and we agreed that it be decentralised. It is as simple as that.

Two, it is not only to decentralise, but also to outsource. Meaning that NTSA can acquire services from other professional institutions that are capable of inspecting and given power by the NTSA to inspect motor vehicles. It happens all over the world. Even in the UK where I schooled, it is done by private entities on behalf of the Government. Everybody will then access the service.

The Bill was advertised and was taken for public participation in March this year. The following people appeared before the Committee, for record purposes, so that everybody knows that it underwent public participation. Mr. Gerald Osiemo appeared before the Committee, Tomea Kenya, Kenya Driving School Association, the National Authority for the Campaign Against Alcohol and Drug Abuse, the Kenya Private Sector Alliance and NTSA. After having long discussions with them, we were all in agreement that we move in this direction. Therefore, I thank the Chair of the Committee on Delegated Legislation who proposed this to the Committee. Through it, we will give Kenyans more service.



Finally, effective public participation was done and there was a lot of interest and many people participated. Later, we will propose an amendment to delete clause 2. On clause 2, the Committee on Delegated Legislation decided to define NTSA, but it is already defined. It is just a clean-up of the Bill to be done in the Committee of the whole House later. We found out that the NTSA is already described in the Traffic Act. If we do not amend it, it will bring confusion on which definition to follow. That is a clean-up. As we support, we did public participation. Let that go on the record of the House. It was very participatory and we agreed on the direction to take.

Thank you, Hon. Temporary Deputy Speaker. I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Kitutu Masaba.

**Hon. Shadrack Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker. I just want to add a few things.

Indeed, when the amendment Bill was brought before our Committee, it was extensively dealt with. We discovered that without outsourcing, we limited many aspects and made it practically impossible to operationalise NTSA. This is a timely amendment.

I support.

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

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to support the Traffic (Amendment) Bill especially given that it addresses the issue of inspection by expanding the inspection unit of the NTSA as a department.

When I was serving in the Departmental Committee on Transport, Public Works and Housing in the last Parliament, that is when NTSA came to force. Part of what we envisaged to see NTSA attend to was the issue of inspection. I am happy that at long last, after 10 years, it is now coming into effect. The effect of this Bill will be Appropriations-in-Aid (A-in-A) that is realised through NTSA. It will improve the envelope of the Exchequer. Countrywide, inspection is done from a few centralised places—maybe four or five centres by NTSA and yet, most vehicles require inspection across the country. Therefore, this is a good Bill. If it is well implemented, the Exchequer will definitely balloon as a result of the A-in-A that will be earned.

Two is speed. Speed has killed very many motorists on the roads. We have lost lives. If it can be checked through what has been proposed in this Bill, it will be good. Issues of traffic police officers come up. Drivers cause death through overspeeding because police officers do not check issues of drunkenness and disorderliness. It has now been defined properly. We are going to improve and save lives on the roads.

With those few comments, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): There being no other Member requesting to speak to this, I call upon the Mover to reply.

**Hon. Kassait Kamket** (Tiaty, KANU): I do not know whether I will be in order to donate one minute?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Member, it is in order. Because debate is maturely closed, you can donate one minute to the Member for Nandi. Give him the microphone behind you.

**Hon. Kassait Kamket** (Tiaty, KANU): Okay. Is that the case? Yes, please. Proceed, *Mheshimiwa*, for one minute.

**Hon. Jonah Mwangi** (Lari, JP): Thank you, Hon. Temporary Deputy Speaker, for allowing me to add my voice to the Traffic (Amendment) Bill. I am a transporter and I have really suffered trying to look for where my vehicles should go for inspection. You will jump to Thika,

Nyahururu and wherever. It is the right time for this amendment. We should have private entities that are authorised by NTSA all around the country, maybe, in each county or more in a county like Nairobi. We will have one on Waiyaki Way, another one on Mombasa Road, another one in Syokimau, and another one in Machakos where we will have our vehicles inspected real time. We will have no congestion; we will have no dens for corruption. When we have one huge inspection centre like the one in Industrial Area, it becomes a den of corruption. It is very difficult for any vehicle to pass through the inspection centre.

So, I am highly in support of this amendment Bill. I am going to walk through with you, Chairman, as we push NTSA to implement the whole of this project. I am grateful it has come at the right time when we are still in this 12<sup>th</sup> Parliament. I hope, God willing, I will come back to the 13<sup>th</sup> Parliament and I will proceed with it. I am also taking this chance to thank everybody who is here and wishing everybody a good time and success, especially you Chair as well, in coming back to this Parliament. God bless you as we depart. Goodnight.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you so much for the wishes. We too wish you the best. Chair, you can now reply.

**Hon. Kamket Kassait** (Tiaty, KANU): Thank you, Hon. Temporary Deputy Speaker. I beg to reply. I recognise all Members who have contributed in support of this Bill. Like I said at the beginning, and in agreement with all the contributors, this is basically a housekeeping Bill. I am happy that history has placed me in this role to move the Bill to help Kenyans to improve their vehicles by having them regularly inspected, to remove the confusion in terms of speed and to remove subjective interpretation of the law on the limit of alcohol. I am proud that this House has agreed with me and the Committee. Moving forward, I hope this matter is assented to pretty quickly so that we can have a law that will help operationalise the Traffic Act.

With those remarks, I beg to reply. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, I order that the putting of the Question be deferred for obvious reasons. As you are aware, the Procedural Motion on extension of sitting time provided that we sit until the conclusion of business appearing as Order No.17. We have concluded business as per the Procedural Motion.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 11.52 p.m., this House stands adjourned until Tuesday, 7<sup>th</sup> June 2022, at 2.30 p.m. I thank you all for staying this late.

The House rose at 11.52 p.m.