



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

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## THE HANSARD

Monday, 2<sup>nd</sup> December 2024

The House met at 2.30 p.m.

*[The Speaker (Hon. Moses Wetang'ula) in the Chair]*

### PRAYERS

### QUORUM

**Hon. Speaker:** Hon. Members, there is no quorum. Serjeant-at-Arms, ring the Quorum Bell.

*(The Quorum Bell was rung)*

Hon. Members, we now have the capacity to transact business.

### PAPERS

**Hon. Speaker:** Hon. Naomi Waqo, you may proceed.

**Hon. Naomi Waqo** (Marsabit County, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

Reports of the Auditor-General and Financial Statements for the years ended 30<sup>th</sup> June 2021, 30<sup>th</sup> June 2022 and 30<sup>th</sup> June 2023, and the certificates therein in respect of:

1. Naivasha High School;
2. Bahari Girls' Secondary School;
3. Karima Girls' High School;
4. Murang'a High School;
5. Kabare Girls' High School;
6. Bishop Okoth Girls' Mbagu Secondary School;
7. Mucharage Secondary School;
8. Isiolo Barracks Mixed Day Secondary School;
9. Isiolo Barracks Secondary School;
10. Waso Secondary School;
11. Kituvu Secondary School;
12. Gacege Secondary School;
13. Cura Secondary School;
14. Loreto High School, Matunda;
15. Moi Girls' School, Nairobi;
16. Broadway High School;
17. Kivani Secondary School;
18. Muumandu Secondary School;
19. Senior Chief Munguti Secondary School;
20. Kambi Mawe High School;
21. St. Stephen's Lwanyu Girls' Secondary School;
22. Uthiru Girls' High School;

23. St. Joseph High School Githunguri;
24. Devki Ruiru Township Secondary School;
25. Chebara Girls' Secondary School; and,
26. Santa Maria Girls' Secondary School, Cheptulon.

**Hon. Speaker:** Thank you. Clerk, let us go back to Order No 2.

### COMMUNICATION FROM THE CHAIR

*(Several Members walked into the Chamber)*

Members on your feet, take your seats. Hon. Melly, take your seat.

#### SPEAKER'S *KAMUKUNJI* ON IMPLEMENTATION OF UNIVERSAL HEALTH CARE

Hon. Members, I have a short Communication to make. As you may be aware, the enactment of the Social Health Insurance Act No. 16 of 2023 established three health Funds; namely, the Primary Health Care Fund (PHCF), the Social Health Insurance Fund (SHIF), and the Emergency, Chronic and the Critical Illness Fund (ECCIF), all managed by the Social Health Authority (SHA).

*(Technical hitch)*

Order, Hon. Members! I understand that our public address system has collapsed. I believe it is a temporary problem that is being worked on. Even the portable microphones are not working. Remain on your seats as they solve this issue.

*(Technical hitch)*

Hon. Members, at least, the portable microphone is now working. I was making a short Communication about the health-related *Kamukunji*. I was at paragraph two.

The said Act provided a framework that succeeded the National Health Insurance Fund (NHIF) with the intention of enabling the Government to achieve its commitment of providing a comprehensive Universal Health Care (UHC) to all citizens.

The Ministry of Health rolled out the UHC Programme on 1<sup>st</sup> October 2024, and the progress has been encouraging despite a few challenges. Indeed, several Members of this House have voiced concerns from the electorate regarding some of the teething problems in the implementation of the UHC Programme.

In this regard, I have received and acceded to a request from the Cabinet Secretary for Health, seeking to engage with all Hon. Members on various matters relating to the implementation of the UHC Programme.

I, therefore, invite all Hon. Members of the National Assembly to a Speaker's *Kamukunji* to be held tomorrow, Tuesday, 3<sup>rd</sup> December 2024 in the Members' Restaurant at 12.15 p.m., and not 7.00 a.m. as earlier communicated.

During the *Kamukunji*, the Cabinet Secretary for Health and her team will apprise Members on the following matters relating to the implementation of UHC:

1. The Progress of UHC Rollout.
2. The Progress of the SHA registration process.
3. The benefits package and applicable tariffs.

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## 4. The means testing tool.

Hon. Members, so as to enable Members to attend the *Kamukunji* as scheduled, I direct an earlier adjournment of the House at 12.00 noon, instead of 1.00 p.m. Please, note that your colleagues from the Senate and the Speaker of the Senate will also be part of that *Kamukunji*. I am sure we all know that health is largely a devolved function.

Thank you.

Now, since the public address system is still giving us challenges, Leader of the Majority Party and your counterpart, can you approach the Chair?

*(Hon. Kimani Ichung'wah and Hon. Mark Mwenje approached the Speaker)*

Hon. Members, we will struggle on with what we have. The Clerk is directed to get, at least, another three portable microphones that can help. So, call out the next Order.

### PAPER

**Hon. Alice Ng'ang'a** (Thika Town, UDA): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Social Protection on its consideration of the Persons with Disabilities Bill, (Senate Bill No. 7 of 2023).

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Chairperson of the Departmental Committee on Finance and National Planning, Hon. Kimani. Who is a member of that Committee? Hilary? Do you have the papers to lay? I am told the Chairman is on the way.

Before we go to Statements, let us dispose of Order No. 8. Please, call out Order No. 8.

### BILLS

#### *Second Readings*

THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL  
(National Assembly Bill No. 5 of 2023)

*(Moved by Hon. (Dr) Makali Mulu on 29.11.2024)*

*(Debate concluded on 29.11.2024)*

*(Hon. Kiborek Reuben consulted with Hon. Wakili Edward Muriu)*

Take your seats, Hon. Members. Hon. Kiborek, the Member talking to Muriu, take your seat.

*(Question put and agreed to)*

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

Hon. Irene Mayaka, if we go to the Start-up Bill, you are supposed to be replying. How much time do you require?

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*(Hon. Irene Mayaka spoke off the record)*

Five minutes? Okay. Clerk, call out Order No.9.

THE START-UP BILL  
(Senate Bill No. 14 of 2022)

*(Moved by Hon. Irene Mayaka on 28.11.2024 – Afternoon Sitting)*

*(Resumption of Debate interrupted on 28.11.2024 – Afternoon Sitting)*

**Hon. Speaker:** Hon. Irene Mayaka, you can reply.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Speaker. I take this opportunity to reply to the Start-up Bill, (Senate Bill No.14 of 2022). On behalf of myself and my co-sponsor, the Hon. Senator Crystal Asige, I would like to, first of all, thank Hon. Mary Kitany who, on behalf of the Departmental Trade Committee, Industry and Co-operatives, was the Secunder to this Motion. I would also like to thank the Leader of the Majority Party and Whip of the Minority Party, together with the Members who supported this Bill.

For the purposes of the Members who were not present, this Bill is set to ensure that we have a set structure for registration and support of the start-ups in this country, especially the ones by the young people. One of the things that is going to be very beneficial is that it is going to support the incubation and also give fiscal and non-fiscal incentives to the start-ups of this country. When you speak about start-ups, we are not just talking about technology-based ones. We also mean start-ups that are entrepreneurial in nature, those that are scientific, and even those that are in the fashion business. We acknowledge the fact that more than 70 per cent of our country is made up of the young people. We want to encourage the young people to own their own businesses, become CEOs, and start supporting people not only within the national Government, but even at the county level.

Some of the benefits that will emanate from this particular Bill are: Tax incentives, tax holidays, exemption from registration fees, proper framework and protection of copyrights. Protection of copyrights is one area that a big number of people who are in the innovation space have really complained about. So, the Start-up Bill is going to enable Kenyans to have protection of copyrights, and promotion of national awareness of the start-ups.

As I conclude, I just want to urge the Members to support this Bill as it goes into Third Reading. I know the Departmental Committee on Trade, Industry and Co-operatives has already intimated that it is going to bring a couple of amendments to it. I encourage every Member to have a look at the Bill so that, by the time it comes for the Third Reading, we will have a comprehensive Bill that will help the people of Kenya.

I submit. Thank you.

**Hon. Speaker:** I beg to reply.

**Hon. Irene Mayaka** (Nominated, ODM): I beg to reply.

**Hon. Speaker:** Thank you, Hon. Irene.

*(Several Members stood up in their places)*

Order! Hon. Members on their feet, take your seats! Hon. Members, I will now put the question at Order No.9. Is the system back?

*(Question put and agreed to)*

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

## QUESTIONS AND STATEMENTS

### REQUESTS FOR STATEMENTS

**Hon. Speaker:** Hon. Agnes Pareyio, wait for the microphone. There you go.

#### DISAPPEARANCE OF A KENYAN IN THE KINGDOM OF SAUDI ARABIA

**Hon. Agnes Mantaine** (Narok North, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations regarding the disappearance of Mr. John Maina Wanjiru, holder of Passport No. BK436079, in the Kingdom of Saudi Arabia

Mr. John Maina Wanjiru has been residing in Saudi Arabia since May 2023, when he moved there for employment. However, his family, with whom he maintained regular communication, claims to have lost contact with him on 25<sup>th</sup> June 2024, raising concerns about his safety and whereabouts. Since then, the family has made several efforts to contact him, but have been unsuccessful. The situation is further exacerbated by the fact that the family does not have the means to look for him.

Hon. Speaker, it is against this background that I request for a statement from the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations on the following:

1. The whereabouts of Mr. John Maina Wanjiru, holder of Passport No. BK436079, who went missing in Saudi Arabia on 25<sup>th</sup> June 2024, and whether there are any investigations or leads regarding his whereabouts.
2. Steps that the relevant Government agencies have taken to ensure that Mr. John Maina Wanjiru is traced and re-united with his family.
3. The measures or protocols that the Government has put in place to facilitate families in tracing their relatives who have disappeared abroad, and prevention of similar incidents occurring in the future.

I thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Pareyio. Hon. Chairman, Departmental Committee on Defence, Intelligence and Foreign Relations.

*(Hon. Martha Wangari stood up in her place)*

Are you a member of the committee?

**Hon. Martha Wangari** (Gilgil, UDA): Yes.

**Hon. Speaker:** Go ahead and tell us when you will bring the response.

**Hon. Martha Wangari** (Gilgil, UDA): Thank you, Hon. Chairman. My Chairman is held up in another meeting.

**Hon. Speaker:** Which Chairman are you addressing?

*(Laughter)*

**Hon. Martha Wangari** (Gilgil, UDA): Thank you, Hon. Speaker. My Chairman, Hon. Koech, is held up in another meeting. Sorry for the confusion. Considering how urgent this issue is, we will raise it and bring a response on Thursday afternoon, if possible.

**Hon. Speaker:** Okay, Thursday afternoon. So be it. Hon Machua Waithaka, Member for Kiambu.

ATTEMPTED LAND GRABBING IN TING'ANG'A  
WARD IN KIAMBU CONSTITUENCY

**Hon. John Waithaka** (Kiambu, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Lands regarding the attempted land grabbing targeting the family of the late Mr Wilson Mbothu in Ting'ang'a Ward, Kiambu County.

The Mbothu family has owned and resided on their 236-acre parcel of land in Ting'ang'a Ward in Kiambu, with their ownership properly documented. The family acquired the land from the white settlers 51 years ago, and legitimate ownership is further evidenced by compensation by the Government for land allocated for the development of the Kiambu-Lioki-Ngewa Road, and additional compensation received for allocation of land for the Athi Water 3 Pipeline easement. However, over the past two months, the family has faced systematic harassment through repeated summons from various State agencies, including the Directorate of Criminal Investigations (DCI) and National Land Commission (NLC), demanding explanations regarding their land acquisition.

The harassment has escalated to include unauthorised visits to the property of the family and acts of vandalism within their farm, which has disrupted their farming activities. Despite the full co-operation with all official summons and investigations, which have not yielded evidence of impropriety, they continue to face intimidation and live in constant fear for their safety and security of tenure.

Hon. Speaker, it is against this background that I request for a statement from the Chairperson of the Departmental Committee on Lands addressing the following:

1. Reasons for the repeated summons issued to the Mbothu family by various state agencies, including specific details of any formal investigations being conducted.
2. The actions being taken to investigate and address the reported incidents of vandalism and unauthorised access to the family's property.
3. The specific steps being taken by the Ministry to protect the legitimate land rights of the Mbothu family, given their documented history of ownership and previous official transactions with Government agencies.
4. The measures being implemented to protect legitimate land-owners from harassment and intimidation by State officials and other interested parties in Kiambu and the country.

Hon. Speaker, I would like to add that Kenya is governed by the rule of law...

**Hon. Speaker:** Order, Hon. Machua. During the time for requests for statements, you read what you have written. When you finish, that is the end of the matter. You cannot debate your request for statement.

**Hon. John Waithaka** (Kiambu, UDA): Thank you, Hon. Speaker.

**Hon. Speaker:** Chairman, Departmental Committee on Lands. Yes, Hon. Nyamoko.

**Hon. Joash Nyamoko** (North Mugirango, UDA): Thank you, Hon. Speaker. I will bring the response after 14 days, which is two weeks.

**Hon. Speaker:** Hon. Machua has said that there is an attempt to grab the land. Why do you need 14 days to bring a response? You can arrest that attempt in two days or even less than two days.

**Hon. Joash Nyamoko** (North Mugirango, UDA): Then, I can bring the response by Friday.

**Hon. Speaker:** Bring the response on Thursday. We do not have a sitting on Friday. Get in touch with your people and stop the attempt.

**Hon. Joash Nyamoko** (North Mugirango, UDA): Thank you.

**Hon Speaker:** Hon. Ariko Namoit, Member for Turkana South. He is not in.

*(Request for Statement dropped)*

Hon. Tongoyo, Chairperson of the Departmental Committee on Administration and Internal Affairs, will respond to a statement requested by Hon Malulu Injendi.

#### ALLEGED SHOOTING OF MS SALOME MAKANDA

**Hon. Gabriel Tongoyo** (Narok West, UDA): Hon. Speaker, Hon. Malulu Injendi sought a statement regarding the shooting of one Ms Salome Makanda by a Kenya Police officer. He sought to know the circumstances that led to the shooting, status of the investigations, and status report on the measures the Government has taken.

On 8<sup>th</sup> October 2024, students from Bungoma National Polytechnic went on rampage. Police officers were consequently called to restore peace and secure the institution's infrastructure. However, the students resisted all the efforts to restore calmness. In the ensuing melee, a student, Ms Salome Ayaka Wekesa, was fatally injured. Several police officers were also injured and were rushed to Bungoma West Hospital where they were treated and discharged in fair condition. A motor vehicle GKB 862Z Isuzu lorry's windscreen was shattered and its left rear tyre deflated.

The investigations are at an advanced stage by the DCI and Independent Policing Oversight Authority (IPOA). The rifle that was involved during the incident has been forwarded to DCI for further ballistic examination with the aim of opening an inquiry file.

Hon. Speaker, the third question was on whether there is compensation. The State Department for Interior and National Administration has no vote-head to cater for the hospital bill. I wish to pass my condolences to the family of the deceased person.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Malulu.

**Hon. Malulu Injendi** (Malava, ANC): Thank you, Hon. Speaker. I appreciate his response. I want to give some background information. That student was killed on 8<sup>th</sup> October 2024 and was buried on 17<sup>th</sup> October 2024. The Hon. Chairman should also know that, that student was shot from the back. The bullet went through the back of the head and came out through the nose. This response says that Salome was fatally injured and yet, that student was killed on the spot. He has not talked about that. He is also saying that the police are doing an investigation. That incident happened in October! The investigation is ongoing, but until when? What are they investigating? When you look at this Report, it does not talk about the student having been shot?

Lastly, he is saying that the investigation is at an advanced stage. Could he verify that information with whoever did the Report? What does this 'advanced stage' mean to the family so that we can keep in line with what they are doing to help or console the family in terms of her death?



That has already happened, and it is now almost two months. When are they expected to complete investigating the matter so that the family can have a proper report? If the police are responsible for the killing, then the National Police Service (NPS) has a responsibility to compensate the family according to the National Police Service Act, 2011.

**Hon. Speaker:** Hon. Tongoyo.

**Hon. Gabriel Tongoyo** (Narok West, UDA): Thank you, Hon. Speaker. First, the issue of being fatally injured is more or less the same thing. It is like someone died.

The response was delivered about two or three weeks ago. If need be, I can get the updated report. When I got this response, I contacted the responsible directorate, and they said that the file could have been forwarded to the Office of the Director of Public Prosecutions (ODPP). An inquiry file had already been opened.

**Hon. Speaker:** Thank you. Hon. Tongoyo is also responsible for the request by Hon. (Prof.) Jaldesa Guyo.

#### RE-OPENING OF HILO GOLDMINE IN DABEL, MOYALE CONSTITUENCY

**Hon. Gabriel Tongoyo** (Narok West, UDA): This is a request for statement being sought by Hon. (Prof.) Guyo Jaldesa regarding the re-opening of the Hilo Gold Mine in Dabel, Moyale Constituency. In particular, he wanted to ask the progress towards the re-opening. He also wanted to know the action being taken by the Ministry to facilitate the re-opening of the mine along with the implementation of the necessary administrative and security structures to safeguard the lives, property and the welfare of the local community, as well as the efforts to ensure co-operatives that have been established by the locals are recognised and legitimised as artisanal mines.

Hon. Speaker, gold mining started in Dabel in 2023. Around March 2024, the population of miners had increased to almost 40,000, thus resulting to conflict, competition, health and environmental security risk. Despite the population increasing, there was no sanitary and toilet facilities. Further, the miners were using crude and outdated methods resulting to deaths due to the collapse of the mine shafts. Young men of questionable character from the neighbouring Somalia and the locals flocked the mining site, thus leading to the closure of the mines.

Following the meeting which was convened by the Ministry of Interior and National Administration, Ministry of Mining, the Blue Economy and Maritime Affairs and other stakeholders on 2<sup>nd</sup> August 2024, it was agreed that both Ministries and the County Government of Marsabit work out on modalities to create a conducive environment for the re-opening of the mines.

On the action to be taken, during the inter-ministerial meetings, the Ministry of Interior and National Administration was tasked to among others, ensure that the Inspector-General (IG) of Police deploys two formed up units that is the Rapid Deployment Unit (RDU) and the General Service Unit (GSU) to replace the local multi-agency team. I can confirm that the two teams have been deployed, and are under the supervision of the I-GP.

Secondly, the National Government Administrative Officers (NGAOs) were tasked to hold a stakeholders' forum in order to ensure that the communities living around the mines come into a consensus to avoid ethnic tension and conflict. So far, the elder's representative from the different communities in Moyale have been meeting to iron out their differences, and are in the process of analysing their memorandum for presentation to the Ministry of Interior and National Administration and Ministry of Mining, the Blue Economy and Maritime Affairs for further direction.

Lastly Hon. Speaker, the co-operatives are established through the Ministry of Mining, the Blue Economy and Maritime Affairs and the County Government of Moyale. So far, 15 co-

operatives have been established and the Ministry of Mining, the Blue Economy and Maritime Affairs, in liaison with the State Department of Co-operatives under the County Government, will give direction and other Ministry's guidelines in readiness for re-opening and operationalisation of the site.

Hon. Speaker, that is the response. This issue has given me an opportunity to interact more closely with the concerned Member of Parliament and some local representatives.

**Hon. Speaker:** Hon. (Prof.) Guyo, are you satisfied?

**Hon. (Prof.) Guyo Jaldesa** (Moyale, UPIA): Not really, Hon. Speaker. It is true that many sites were never officially closed in practise, but they were converted into some underworld dealings in cahoots with the security agencies, hence denying the local communities the chance to benefit from their natural resource.

The people of Moyale agreed to live together in harmony with the local dispute resolution mechanisms having been put in place. Moyale is not in any way near Somalia. We are not anywhere near Somalia, and on behalf of the people of Moyale and Kenyans at large, I want that re-opening to be formalised and de-gazettement of the closure. The place was closed based on security grounds, thus denying people access to the natural resources and yet, allowing the security agencies to benefit with some other people. Let us de-gazette the closure and formalise the opening so that people can fetch whatever they can get. This is a gift from God after the severe drought of 2022/2023. We managed to get gold in our place. Why then should it be denied because of security reasons?

**Hon. Speaker:** Hon. Tongoyo.

**Hon. Gabriel Tongoyo** (Narok West, UDA): Hon. Speaker, it is true, and I appreciate that my Vice-Chairman is a local there. I will give him a chance to elaborate. I admit that we had a one-on-one meeting with Hon. (Prof.) Jaldesa, and the official position is that the place is gazetted as a disturbed area and it is closed. The rumour is that there are a lot of interests, and people are going there illegally to do mining. It is also good for the Member to be honest enough and point out that some local leadership in the area are interfering with the process. I am sure you are aware of that, and you appreciate. It is said that, that is one of the richest gold mines in the country. It is a treasure. I want to emphasise that it is not safe to open it until the facilities are provided and the risk is minimised so that we can avoid the unnecessary deaths of the locals.

Having said that, I, kindly, ask my Vice-Chairman, who is a member of that community, to elaborate further.

**Hon. Speaker:** Hon. Tongoyo, I have not told you to invite a Member to speak. Hon. Raso, are you seeking clarification or you are giving more information?

**Hon. Ali Raso** (Saku, UDA): Hon. Speaker, I come from that area and I am an interested party.

**Hon. Speaker:** Go ahead.

**Hon. Ali Raso** (Saku, UDA): Thank you, Hon. Speaker, for giving me the opportunity. The Chairman of the Committee has given a response in form of a Statement from the Ministry. To say the truth, this is travesty of justice. Indeed, the Government closed down the Hillo Goldmine. However, mining continues day and night. Other forces have taken over, thereby denying the locals the chance to carry out artisanal mining. They eke a living from mining with their bare hands.

Hon. Speaker, for that reason, I request you to guide us on this because we are the people's representatives. The Member for Moyale has not been consulted even though he has done the necessary groundwork in terms of organising the community and forming co-operatives and saccos. So as to help the people of Moyale, the Departmental Committee on Administration and Internal Affairs and the Departmental Committee on Environment, Forestry and Mining should constitute small teams to visit the area, so that they can respond

comprehensively to the House on whether that is failure on the part of the Government on matters security, or the people are being denied their rights for no apparent reason.

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, Professor.

**Hon. (Prof) Guyo Jaldesa** (Moyale, UPIA): Thank you, Hon. Speaker. The truth of the matter is that there are many interested parties that are facilitating the continued closure and denying the people access. I will be glad if the Departmental Committee on Administration and Internal Affairs and the Departmental Committee on Environment, Forestry and Mining visits the site.

The fact of the matter is that we were denied a chance. We are pleading for the de-gazettement of the insecurity status. The issue of toilets and pit latrines is a business the people have adopted. Some people dug pit latrines to hire to those who want to use them. Therefore, that is not an excuse. The county government was asked to assist, but they did not. So, let us not deny our people the opportunity to benefit.

**Hon. Speaker:** Hon. Tongoyo, I advise you to meet with the Member again, together with the Vice-Chairman and any other interested party from the area. I think these are administrative issues which you can sort out. You have this afternoon and tomorrow to meet with the concerned Members. Hon. Adhe Wario, Member for North Horr. Where is the Chairman of the Departmental Committee on Agriculture and Livestock? Vice-Chairman? Leader of the Majority Party, where is the Chairman?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, the Chairman and Vice-Chair are in a coffee engagement at Serena Hotel. I thought they would have been here by now. We may, probably, ask the Chairman to excuse himself from that meeting.

**Hon. Speaker:** At least, Hon. (Dr) Mutunga is a very consistent attendee.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Very consistent.

**Hon. Speaker:** Hon. Wario, I cannot chide the Chairman. He is always here and normally very responsive to parliamentary business. Therefore, I direct that your matter be stayed to Wednesday morning when it can be responded to. Is that alright with you?

**Hon. Adhe Guyo** (North Horr, KANU): Well guided, Hon. Speaker. Thank you very much.

**Hon. Speaker:** Thank you, Hon. Wario. Hon. Musa Sirma, the Chairman of the National Government Constituencies Development Fund (NG-CDF).

#### STATUS OF DISBURSEMENT OF NG-CDF FUNDS

**Hon. Musa Sirma** (Eldama Ravine, UDA): Hon. Speaker, last week, a Member rose on the Floor of the House to request for a statement regarding the status of receipt of NG-CDF funds and the disbursements as at 2<sup>nd</sup> December 2024.

NG-CDF is established under Section 4 of the NG-CDF Act, 2015 as amended in 2023, with an objective of addressing poverty and regional development imbalances. It dedicates a minimum of 2.5 per cent of the national Government share of annual revenue, divided by the annual Division of Revenue Act that was enacted pursuant to Article 218 of the Constitution.

The funds are geared towards community driven development projects in every constituency that are identified and implemented at grassroots level. The Fund is managed by the NG-CDF Board, which is a body corporate established pursuant to Sections 14, 15 and 16 of the Act at the constituency level. The day-to-day management of the Fund is vested in the NG-CDF committees that are in place in each of the 290 constituencies.

In the Financial Year 2024/2025, NG-CDF was allocated a total of Ksh68,232,900,000. In the Financial Year 2023/2024, NG-CDF was allocated Ksh54,777,000,000 pursuant to Section 4 of the NG-CDF Act, to fund projects proposals that are identified at the constituency

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level. An amount of Ksh13,455,900,000 was carry-over funds from the Financial Year 2023/2024. In the Financial Year 2023/2024, Ksh53,531,500,000 was disbursed to the Fund pursuant to Section 4 of the NG-CDF Act to fund project proposals that are identified at the constituency level.

A further appropriation of Ksh3.4 billion was made under Financial Year 2023/2024 Supplementary Estimate I as a conditional grant to NG-CDF for the construction of classrooms and integrated learning resource centres in Junior Secondary Schools. In addition, still under the Financial Year 2023/2024 Supplementary Estimate I, a further Ksh1 billion was allocated to the NG-CDF as a conditional grant for infrastructure development for schools in Nairobi City County. This brings the total allocation to NG-CDF in the Financial Year 2023/2024 to Ksh57,931,500,000.

Hon. Speaker, out of Ksh68 billion allocated in the Financial Year 2024/2025, the Board has received a total of Ksh13,531,000,000. This Financial Year, on 25<sup>th</sup> September, we received Ksh5.5 billion. On 30<sup>th</sup> September, we received Ksh2.3 billion and on 15<sup>th</sup> November, which was the final tranche of the Financial Year 2023/2024 allocation, we received Ksh5.731 billion, which is being disbursed. In the Financial Year 2023/2024, the Board received Ksh44,400,000,000 from the National Treasury. The funds were received in various tranches as stipulated below: 8<sup>th</sup> of January 2024, Ksh6 billion, 10<sup>th</sup> of January 2024, Ksh4 billion, 21<sup>st</sup> February 2024 Ksh10 billion, 3<sup>rd</sup> April 2024, Ksh10 billion, 29<sup>th</sup> April 2024 Ksh10 billion, 1<sup>st</sup> July 2024, Ksh4.4 billion; thus, giving a total of Ksh44.4 billion.

On the disbursement of funds for Financial Year 2023/2024 to the constituencies and the Board Secretariat, the Board disbursed the funds received to the constituencies and the board as follows: In 90 constituencies, they have disbursed the full amount, amounting to Ksh16,840,869,971.148. Constituencies have received between 90 and 99 per cent of the funds allocated amounting to Ksh27,016,806,270, leaving a balance of Ksh1,136,088,537. Thirty-nine constituencies have received between 80 and 89 per cent of the funds allocated amounting to Ksh6,591,802,803, leaving a balance of Ksh99,340,215. Thirteen constituencies have received between 65 and 79 per cent of the funds allocated amounting to Ksh1,993,158,791, leaving a balance of Ksh661,224,246. In addition, the Board has been disbursing funds to constituencies which had pending balances of...

*(Several Members stood in their places and consulted loudly)*

**Hon. Speaker:** Order Members at the back. Take your seats or retreat to the corridor and discuss your issues there. Go on.

**Hon. Musa Sirma** (Eldama Ravine, UDA): In addition, the Board has been disbursing funds to constituencies which had pending balances with respect to funds allocated between Financial Years 2019/2020 and 2022/2023. However, a total of Ksh434,077,337.20 is yet to be disbursed due to the outstanding issues as summarised below: Financial Year 2022/2023, 36 constituencies had Ksh279,806,859 that is still with the Board. Financial Year 2021/2022, 10 constituencies have Ksh99,563,445. Financial Year 2020/2021, 11 constituencies with Ksh51,666,380. Financial year 2019/2020, two constituencies have a total of Ksh3,040,650. Thus, the total amount which is still pending is Ksh434,077,334.20. I have annexed the various individual constituencies on my table.

The factors which are affecting disbursements of funds to constituencies are:

1. Slow pace of receipt of funds from National Treasury which, if we have not received, will take time.
2. Delay by some constituencies in clearing identified issues to facilitate approval of the outstanding projects.

Hon. Speaker, I beg to table the list so that Members can have time and look at the status of their constituencies and possibly expedite by asking their fund managers and chairpersons the issues which have been raised on projects. Thank you, Hon. Speaker.

*(Hon. Sirma laid the document on the Table)*

**Hon. Speaker:** You have left out something Hon. Musa Sirma. It was alleged here by some Members that Members of your Committee prioritise yourselves to get early disbursements at the expense of other Members.

*(Hon James K'Oyoo spoke off the record)*

Order, Hon. K'Oyoo! That allegation is on *The Hansard* and it would be good for you to also speak to it. How many Members are you in that Committee?

**Hon. Musa Sirma** (Eldama Ravine, UDA): Hon. Speaker, we are 18 Members. My constituency is among the ones which is between 90 and 99 per cent. We are in fact at 90 per cent disbursement and yet, I am the Chairman. I cannot force the Board to approve projects which have not been clearly understood by the Board or there are some issues to be raised. Especially, issues dealing with land always take a long time. You must produce the title deed before paying the owner. That is where the problem is. Owners at times refuse to transfer the land.

There are also problems with engineers who delay in giving their technical expertise for it to be approved. Those are the issues. The Committee is treated equally and I have never asked them to prioritise my projects. It is only when they are eligible to be approved. Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Injendi Malulu.

**Hon. Malulu Injendi** (Malava, ANC): Hon. Speaker, besides what he is responding to, when it comes to Corporate Social Responsibility (CSR), most of the Committee Members are the ones who mostly get it and not other Members like ourselves. I have been here since 2013 and I have never had any of those.

**Hon. Speaker:** Yes, Hon. Gisairo.

**Hon. Clive Gisairo** (Kitutu Masaba, ODM): Thank you, Hon. Speaker. I stand as a member of the Committee. It is quite unfortunate that other Members feel that we have undue advantage by virtue of being in that Committee.

As at today, Kitutu Masaba is owed a significant amount of money by the Board, but because of very valid reasons. Whenever I follow up, I am always explained to that items x, y, and z have not been approved because of these gaps. Every week, a number of Members in this House have approached me when they have issues and I have walked with them to the Board because some of the Members do not know where the National Government Constituencies Development Fund (NG-CDF) Office is. We try to assist.

On the issue of saying that we get CSR, in my constituency, there is a CSR project that was started in the last term. I have been following for it to be completed, but it is yet to be completed.

*(Hon. Raphael Wanjala spoke off the record)*

It was in the last term. I was not a Member of Parliament then. Hon. Wanjala, it is proper to listen before commenting. It will be unfair to judge and put the Members of the Committee in a corner and yet they are also facing the same problems as those who are here.

Our work is to try and push for all to get the fair distribution of funds so that constituents can benefit from the resources.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Hon. Omboko Milemba.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker. I want to commend the National Government Constituencies Development Fund Committee. Despite the fact that it is being labelled as practising favouritism, they have done far much better. They need to be congratulated. The Chairman has been very accurate in bringing reports.

The Report he has just given us is quite detailed by annexing how every constituency is performing. Indeed, we have not received all our monies. Chairman, please, push so that we can get those monies and complete our projects. I have heard that the money is with the NG-CDF Board.

Back to the question that was on the Floor on fairness, the NG-CDF Committee is fairer than other committees in this House. In fact, before we crucify the NG-CDF Committee, we should first deal with certain committees in this House. It takes courage to speak on this matter honestly. When I went to the Budget Office, I looked at the number of roads and the amount of money that had been allocated to Emuhaya Constituency and it was shocking. If you were to see it, you would empathise with me. The money was less than Ksh30,000. There are constituencies that get up to Ksh500 million for roads. The Members of the affected Committee are in this House. They are supposed to take care of all the Members of Parliament because it is not possible for all of us to be in all the committees.

Another example is the Departmental Committee on Energy. I can see a few of the Members are now looking down. You know my slogan is: "Look at me in the eye." It is a shame. It requires boldness to speak on this. I used to sit on the Opposition side when I was in NASA. Sometimes, people imagine that when you are on the Government side, you will be favoured. Even though I am on the Government side, I can tell you that I have never been given any power project in my constituency and yet, there are constituencies that have been given projects worth Ksh400 million and Ksh500 million. So, as we go for the long recess, we should also take care of the Departmental Committee on Energy because we do not know what they are doing. This House is for everybody and the energy money is for all the Kenyans.

*(Applause)*

Therefore, as we talk about the NG-CDF Committee, the Departmental Committee on Energy, the Departmental Committee on Transport and Infrastructure and the Budget and Appropriations Committee must be looked into so that there is fairness. It cannot be that we sit in the same House and yet, some Members are getting Ksh20 million whereas others are getting Ksh800 million for the same projects. What the hell are we doing? I am sorry to use bad language. I withdraw the word "hell". It is not correct and I want to put it on record.

Thank you.

**Hon. Speaker:** Hon Okuome.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you, Hon. Speaker. I just want to emphasise as well that there is need for timely action. I know we are in the 2024/2025 Financial Year. We are almost going through the first half of the year and yet, the NG-CDF money has not been disbursed to the constituencies. If it disbursed in December or early next year, we will have a very tight timeframe to absorb the money. That is my first point.

My second point is more or less the same with what *Mheshimiwa* Omboko has said. Honestly, all constituencies are the same in law. All MPs are the same. We need fair treatment so that we can get equal opportunities that come with the fund's allocation in the appropriation of the NG-CDF to the Members of Parliament. On this one, I am not blaming anybody.

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However, I want to ask the chairpersons of various committees to ensure that we get our fair shares timeously.

Thank you.

**Hon. Speaker:** Thank you. Hon. Wanjala.

**Hon. Raphael Wanjala** (Budalang'i, ODM): Hon. Speaker, sorry, I have a cold. I want to agree with *Mheshimiwa* Omboko that there is unfairness by the Departmental Committee on Energy, the Departmental Committee on Transport and Infrastructure and the Budget and Appropriations Committee. We have only 290 constituencies in the country. Why can we not agree as a House that during budgeting, if for example, we have Ksh6 billion or Ksh7 billion for roads, each constituency is first given Ksh1 billion so that it can start doing roads slowly? We have two constituencies, one in Kiambu and the other one in Murang'a, that have taken all the billions. If you look at the budget, it leaves a lot to be desired. Therefore, please guide the House.

On electricity, every constituency should get an equal amount, and then the leadership can use the balance on whatever it wants to do. On roads, we can have a billion for each constituency. That will only be Ksh290 billion. The rest, the leadership can decide on where to take it. This can be done in every sector. These people are screwing us. We are in a Parliament, but it looks like we are not just because we are not Members of the Budget and Appropriations Committee.

Thank you.

**Hon. Speaker:** Who is that? Hon. Chonga.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you, Hon. Speaker. The matter that is being discussed is more serious than the way it looks.

**Hon. Speaker:** It is NG-CDF.

**Hon. Ken Chonga** (Kilifi South, ODM): Yes. The matter of NG-CDF is more serious than the way it looks. A number of Members of Parliament have received a backlash from their people out there who see what is going on in their neighbouring constituencies that is not happening in their constituencies. For instance, in education, some constituencies have disbursed bursaries to nearly all the students in their constituencies, whereas others have not. Talking only is not enough. Saying that the Committee is doing this and that or will allocate this much is not enough. Time has come that fairness must be seen to be done. A proper mechanism has to be put in place so that we can all be treated equally and perform at the same standard.

What has been said by Hon. Omboko Milemba is true. I sit in the Departmental Committee on Energy and I have a very sad story to tell about the Committee. It will be shameful if I share it here. I am not happy at all with what we are doing. One Member is getting over Ksh800 million and other Members are getting Ksh20 million from the same budget. That cannot be fair at all. It cannot be. We will not...

**Hon. Speaker:** Thank you. Hon. Tandaza.

**Hon. Kassim Tandaza** (Matuga, ANC): Thank you, Hon. Chairman. I stand as the Vice-Chairman of the Committee.

**Hon. Speaker:** This is your Speaker. This is not your Chairman.

**Hon. Kassim Tandaza** (Matuga, ANC): Oh Sorry! Thank you, Hon. Speaker. I am standing here as the Vice-Chairman of the Committee. One...

**Hon. Speaker:** Which committee?

**Hon. Kassim Tandaza** (Matuga, ANC): The NG-CDF Committee. My Chairman is here. One, we do not have CSR under the NG-CDF Committee or under the NG-CDF Board. What we have is what we call "best practises." That is necessary. As you may realise, while we are blessed with different terrains geographically, sometimes, we have projects that are below standard. Sometimes, some people opt to put up classrooms without doors and windows.

That is not appropriate. So, under such circumstances, the NG-CDF Board, through the NG-CDF Committee, sees it fit to apply best practises whereby other Members adopt a drawing and do their projects as per their specifications.

The other issue is that, even as the Vice-Chairman, I am still owed some money by the NG-CDF Board on reallocation. That happens in most cases with Members because of one reason or another. In my case, the Cabinet Secretary for Education decided to put up classrooms where I had already allocated classrooms. So, there was no need to put up those classrooms there. However, reallocations come with their share of challenges. Otherwise, as the Chairman has stated, it is clear that all the money is with the Board. Everybody should have the money if they meet the requirements as per the regulations that the House set.

Thank you.

**Hon. Speaker:** Enough for statements. Next Order.

## MOTION

### ADOPTION OF REPORT ON RATIFICATION OF THE AGREEMENT ON THE ESTABLISHMENT OF THE GLOBAL GREEN GROWTH INSTITUTE (GGGI)

**Hon. Speaker:** The Chairperson, Departmental Committee on Environment, Forestry and Mining. Hon. Ngogoyo, are you a member of the Committee?

**Hon. Onesmus Ngogoyo** (Kajiado North, UDA): Yes, Hon. Speaker.

**Hon. Speaker:** Go ahead.

**Hon. Onesmus Ngogoyo** (Kajiado North, UDA): Hon. Speaker, on behalf of the Committee Chairperson, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Environment, Forestry and Mining on its consideration of the Agreement on the establishment of the Global Green Growth Institute, laid on the table of the House on Wednesday, 20<sup>th</sup> November 2024 and, pursuant to the provision of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the ratification of the Agreement on the establishment of the Global Green Growth Institute.

Hon. Speaker, I wish to bring to the attention of this House that the Global Green Growth Institute (GGGI) was established in 2012 at the Rio Plus 20 United Nations Conference on Sustainable Development. The Agreement on the Global Growth Institute was subject to ratification and entered into force on 18<sup>th</sup> October 2012, following the signing of the Agreement by 16 countries and accession by five countries.

The GGGI is a treaty for inter-governmental organisations that supports and promotes sustainable economic growth in developing countries and emerging economies. It provides green growth services to governments and promotes action by supporting access to climate finance through building nation finance vehicles and helps address policy gaps and challenges like what we have seen this country do on tree growing. GGGI currently has 48-member states which include nine from Africa. They are: Angola, Ethiopia, Rwanda, Uganda, Senegal and Zambia. The Headquarters of the GGGI is located in Seoul, Korea.

On 13<sup>th</sup> December 2023, the Cabinet of Kenya approved a Cabinet Memo on the accession of the GGGI and, pursuant to Section 7 of the Treaty Making and Ratification Act of 2012, upon accession of the Global Green Growth Institute, Kenya shall be required to:

1. Attend and participate in the biennial meeting of the Assembly under Article 7(2).
2. Invest in public participation and awareness of the GGGI sustainability development.



3. Accord the GGGI privileges and immunities as may be necessary and appropriate for proper functioning under Article 15.
4. Guide and co-operate partnership and linkage with other international bodies under Article 16.
5. Carry out all functions of the Assembly, including electing members to the Council, appointing the Director-General, considering and adopting amendments to the Agreement, and receiving reports from the secretariat.

The Committee undertook public participation upon placement of the adverts in the print media on 23<sup>rd</sup> July 2024 requesting for comments and submission of memoranda from the members of the public and other relevant stakeholders, pursuant to Article 118(1) (b) of the Constitution and Standing Orders. The Committee received memorandums and oral submission from the following institutions:

1. Ministry of Environment, Climate Change and Forestry.
2. Ministry of Foreign Affairs and Diaspora.
3. The National Treasury and Economic Planning.
4. The Office of the Attorney-General.

We observed the following. Having considered the Agreement, the Committee made the following observations:

1. Membership of the GGGI will enable Kenya access finance and technical support to mainstream green growth and climate change actions in national planning.
2. The memorandum to the GGGI will enable Kenya benefit from sharing and gaining knowledge through multi-country co-operation.
3. The GGGI presents an opportunity for Kenya to explore and tap into the benefits of the green growth economy, which includes accelerating green financing and creating green jobs.
4. Kenya is a beneficiary of the Green Climate Fund with a number of projects finance opportunities access, which has enabled the country to carry its development objectives with the climate lens.
5. GGGI as a delivery partner, is a great opportunity for Kenya to leverage for more project financing by the Global Climate Fund.

The ratification of the Agreement by Kenya establishes the GGGI and provides an opportunity for Kenya to participate fully in the GGGI activities, including voting rights in the GGGI Assembly and Council. The GGGI will help us get funds from the Global Climate Fund. We will have a structure that is more organised and the ratification of this Agreement by this National Assembly will now make us full members of GGGI.

*[The Speaker (Hon. Moses Wetang'ula) left the Chair]*

*[The Deputy Speaker (Hon. Gladys Boss) took the Chair]*

Hon. Deputy Speaker, the Committee, having considered the Agreement, recommends that the House approves the ratification of the Agreement on the establishment of GGGI.

Finally, the Committee is thankful to the Office of the Clerk and the National Assembly for the logistical and technical support accorded to it during its sittings, the ministries for their participation and the submissions during the consideration of the Convention.

I, therefore, beg to move and request the Leader of the Majority Party, Hon. Kimani Ichung'wah, to second this Motion.

**Hon. Deputy Speaker:** Proceed.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. I rise to second this Motion on GGGI.

For the information to the House and in addition to what the Chair-Designate of the Departmental Committee on Environment, Forestry and Mining, Hon. Ngogoyo, Member for Kajiado North has said, Kenya's letter of intent to join as a member of the Agreement was done on 23<sup>rd</sup> November 2022 by the Cabinet Secretary then for Foreign and Diaspora Affairs, in a letter that was addressed to the Director-General of the GGGI. The Office of the Director General communicated its approval of Kenya's willingness to join the GGGI on 11<sup>th</sup> January 2023. In the same communication, GGGI requested Kenya for a grant of the privileges immunity agreement. On that immunity agreement, a host country agreement negotiation team meeting on the GGGI Agreement on the legal status and the immunity was held in July 2023 with Kenya's negotiation team and GGGI representatives. As part of the accession process, a cabinet memorandum was submitted to the Cabinet for approval for accession in May 2023 in line with Section 7 of the Treaty Making and Ratification Act, revised version of 2012.

Further, the Cabinet approved accession for the GGGI during its meeting held on 13<sup>th</sup> December 2023.

Further, on 13<sup>th</sup> May 2024, the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs submitted a Parliamentary Memorandum alongside a copy of the Agreement to the National Assembly. That is the Memorandum and Agreement that the Committee has been considering and recommends its approval thereof by the House.

It is important to mention that the main objective of the GGGI is to promote sustainable development of developing and emerging countries, including the least developed countries. This is by supporting and diffusing a new paradigm of economic growth, targeting key aspects of economic growth and economic performance, resilience, poverty reduction, job creation, social inclusion and creating and improving economic, environmental and social conditions of developing and emerging countries through partnerships between developed and developing countries, and the public and private sectors. Our country is now in a better place since we began the public-private partnerships arrangement.

We are also trying to leverage on low-carbon green economies and carbon credit financing in the financing of development initiatives. We are also working with the developing countries through collaboration with the developed countries of the global south and the global north, as they have been christened.

Additionally, the Global Green Growth Institute (GGGI) plays the role of an enabler and facilitator of member-transition into low-carbon green economies. As I said, our country has been doing very well in that aspect since a huge percentage of our energy is now green energy. Many countries can benefit from emulating Kenya, especially on energy production from green sources. Therefore, as we transition into a low-carbon green economy, we will benefit from the knowledge, skills and technology from other developing and developed countries.

The Treaty also seeks to provide policy advice and technical support in the development of green growth plans, policies and regulations, mobilisation of green investments, implementation of green growth projects and development of local capacities and knowledge-sharing. Therefore, we will get an opportunity to share knowledge with other developing countries and the developed world. We are far ahead of many developed countries in terms of green energy with the geothermal and wind energy that we produce in the country.

Therefore, the Treaty comes at a very good time. Its approval thereof by this House will be a very good thing not just for our country, but for the world in terms of reducing carbon emissions, having green economies around the world, leveraging on green financing for projects and also encouraging the growth of green projects and investments in our country, region and Africa at large.

With those many remarks, I beg to second the Motion.

*(Question proposed)*

**Hon. Members:** Put the Question!

**Hon. Deputy Speaker:** Is it the mood of the House that I put the Question?

**Hon. Members:** Yes!

*(Question put and agreed to)*

## BILL

### *Second Reading*

THE PUBLIC AUDIT (AMENDMENT) BILL  
(National Assembly Bill No.4 of 2024)

**Hon. Deputy Speaker:** Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Speaker, I beg to move:

THAT, the Public Audit (Amendment) Bill, (National Assembly Bill No.4 of 2024), be now read a Second Time.

The Public Audit (Amendment) Bill, (National Assembly Bill No.4 of 2024), seeks to amend the Public Audit Act on the basis of a court ruling filed by Transparency International versus the Attorney-General & 2 Others of 2018, Petition No.388 of 2016, that sought to nullify certain Sections of the Public Audit Act Cap.412B on the basis that they were unconstitutional.

In line with that, we published this Bill that seeks to rectify what the court found to be unconstitutional. I must take this opportunity to thank the Chairman of the Departmental Committee on Finance and National Planning in absentia, and all the members of the Committee for considering the amendment Bill and the report that they tabled in the House agreeing with many of the provisions.

Some of the things that were found to be unconstitutional revolved around Sections 4(2), 8, 12, 17(1), 18, 27, 40, 42 and 70. Justice Mwita held that all those Sections of the Public Audit Act Cap.412B were inconsistent with and in contravention of the Constitution and were, therefore, invalid.

Clause 2 of the Bill contains amendments to definitions of certain terms in alignment with the new proposals. Some of those new definitions are of terms such as “accounting officer”, “Auditor-General”, “effectiveness”, “lawful”, “public entity”, “Audit”, “disallowable expenditure”, “economy”, “efficiency”, “grant”, “irregular expenditure”, “Office of the Auditor-General”, “public money”, “public resources”, and “unauthorised expenditure”. Those definitions have a bearing on the issues that were touched on by the courts that were considered to be unconstitutional.

In Clause 3 of the Bill, the Office of the Auditor-General is now being defined as comprising of the Auditor-General, who shall be the accounting officer, and the staff appointed by the Auditor-General. It is worth noting that Section 4(2) of the Public Audit Act was declared unconstitutional because it provided that the Office of the Auditor-General was to comprise of the Auditor-General as a statutory head, and other staff appointed by the Auditor-General, as may be delegated in Article 234 of the Constitution. That is what Justice Mwita found to be unconstitutional. In declaring that provision unconstitutional, the High Court reasoned that Section 4(2) of the Act resulted in the unconstitutional effect of reducing the constitutional Office of the Auditor-General into a statutory office. Therefore, the amendments

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to Clauses 2 and 3 are to ensure that the Office of the Auditor-General is not reduced to a statutory office, and that it remains a constitutional office where the Auditor-General will continue acting as a constitutional officer. This is largely to safeguard the independence and autonomy of that office.

Clause 4 amends Section 5 of the parent Act on the qualifications for appointment as the Auditor-General to include an additional qualification requirement for the Auditor-General to be a practising member of good standing of a professional body of accountants that is recognised by the Accountants Act. That is important because we need to hold the appointees to the Office of the Auditor-General accountable to a professional body. Therefore, we are seeking to ensure that one of the qualifications for whoever is appointed to that office is that he or she needs to be a practising member of good standing of a professional body like the Institute of Certified Public Accountants of Kenya (ICPAK). I was honoured to address the ICPAK during their annual conference in Mombasa about two weeks ago. As an accountant, accountants of good standing are good people because they deal with facts and figures as they are. We will tell you if there is a problem. We do not sugar-coat the truth.

Hon. Deputy Speaker, I know you are a very senior lawyer in this country but, unlike accountants, lawyers will twist things according to what their clients want. They will even twist facts and figures. But the accountants deal with facts and figures as they are. Hon. TJ Kajwang' is smiling broadly because he knows that. When lawyers act for their clients, they say what suits their clients. It is different for accountants, especially those of good standing. That is why the provision talks about an accountant of good standing in a professional body that is recognised by the Accountants Act. We made some amendments to the Accountants Act in the 12<sup>th</sup> Parliament.

**Hon. Deputy Speaker:** Leader of the Majority Party, I can help you as a lawyer of good standing. With accountants, one plus one is two. But for lawyers, one plus one can be one or two or three. There are three options, but there is a definite answer. Hon. TJ, you cannot let him take a swipe at us.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Speaker, I never meant to say lawyers are not truthful. As you have said, and Hon. TJ agrees with you, for a lawyer, one plus one can be anything. But for an accountant, one plus one must be two and it cannot be anything else. To safeguard public interest and resources, we cannot have professions where one plus one does not add up to two. The people we entrust with public resources must be truthful. If you subtract, the eventual answer must add up without meandering and without excuses as to why the result is not what it ought to be. I say that with tremendous respect for your profession. In the profession of accountants, that is the way it is. That is why many of us are unable to tell lies or say things that are not factual, truthful or accurate. We remain faithful to figures and facts as they are.

Clause 5 of the Bill seeks to amend Section 7 of the Act on the functions and powers of the Auditor-General to provide for an additional function, which is to satisfy himself or herself that public resources have been applied or used economically and provide value for money. Public resources are to be applied efficiently and effectively in a transparent and sustainable manner. There has been a gap in our laws. The Office of the Auditor-General audits how money is applied, but they do not look at the effectiveness of how the public resources are utilised, and how transparent and sustainable those resources have been applied.

I do not want to consider this Bill clause by clause. All the provisions in this Bill align with all the issues that the court, through Justice Mwita, found to be unconstitutional. Clause 9 clarifies the role of the Audit Advisory Board in the development of the organisational structure of the Office of the Auditor-General. The provision cures the problem in the provision that provided that an organisational structure was to be considered and approved by the Audit Advisory Board. That has been clarified and the role of the Board is now clear.

Clauses 10 and 11 of the Bill seek to amend sections 15 and 16 to provide for the recruitment of a Deputy Auditor-General in place of a Senior Deputy Auditor-General. The current office has the Auditor-General and the substantive deputy is the Senior Deputy Auditor-General. We seek to amend that provision to provide for the recruitment of a Deputy Auditor-General. It now states the correct position that the recruitment shall be done by the Auditor-General and not the Advisory Board. It provided that the recruitment would be done by the Advisory Board and the appointment by the Auditor-General. The provision further aligns the responsibilities with the Constitution to cure the problems that the good judge found unconstitutional.

This is a very detailed Bill, by and large. It aligns what was found to be unconstitutional. We have nothing to debate on what the courts found unconstitutional. We legislate and leave it to the courts to interpret the law. If the courts find particular sections or an entire law does not conform to the Constitution, they may declare so as they did. The onus remains on the House to correct what was found unconstitutional and align it with the Constitution. By and large, all the amendments in this Bill seek to align the sections that were found unconstitutional. I hope Members will support.

As I indicated, the Departmental Committee on Finance and National Planning considered all these provisions and tabled their Report before the House. The Report, by and large, agrees with what the court found. We have no choice than to agree with them. I urge the House to support. The offices of the Auditor-General and the Controller of Budget are very critical under the architecture of the Constitution. Those offices ensure public resources are utilised in an accountable and transparent manner. We seek to further enrich their functions to ensure that there is not only transparency, but that public resources are applied in an accountable and efficient way so that we get value for money. More importantly, public resources should be applied pursuant to set policies to effectively improve the lot of the Kenyan people.

If we fail to empower the Office of the Auditor-General, man is bound by temptations. Those charged with the responsibility of applying public resources get tempted. There must be something that tells you that however much you are tempted to touch public resources, there is somebody watching and superintending over those resources. This will ensure that you do not only apply the resources effectively and efficiently, but in a sustainable manner to safeguard the development of our country. More importantly, it is to ensure value for money in the application of public resources. When there is no value for money, we end up applying so much public resources in projects that do not give value to the Kenyan people.

We have been told that Kenyans have no problem with paying taxes. What they want is value for every coin and cent that they pay in form of taxes. Kenyans want to see how resources are applied when a road is being constructed. I heard the debate earlier on the application and deployment of resources for roads development in the country. There are roads that have not been completed one year down the line because public resources were not applied in an efficient, accountable, transparent and effective manner to ensure value for money. A year down the line, a road that was improved to bitumen standards is dilapidated and worse than when it was a murrum road. We have seen that across the country. That is why we must ensure the Office of the Auditor-General scrutinises how public resources are applied by State officers that are charged with that responsibility. All Members of Parliament bear the brunt of the public when the roads are impassable.

Recently, the Member of the County Assembly (MCA) for Syokimau/Mlolongo Ward was forced to walk through ponds of water by his constituents because they felt he had failed them. They forget that the MCA has no resources to apply in the implementation of Government projects. If anything, the person they should have made to walk through that pond of water is either their governor or the member of the county executive committee (CEC) in

charge of roads. Tomorrow, these Members of Parliament will be made to walk through ponds of water by their constituents who fail to understand the roles of the various arms of Government. It is the same members of the public who the other day told us to stop implementing projects that were allocated some money through the National Government Constituencies Development Fund (NG-CDF) and the Fuel Levy in the Kenya Roads Board. Equally, the courts have agreed with everybody that the key responsibilities of Members of Parliament revolve around legislation, which we are now doing. We also have oversight and representation roles. I have seen Members, even this afternoon, representing their people by saying that hundreds of billions of shillings have been allocated to a few counties to construct certain roads, while other counties and constituencies have been left out.

*(Hon. Marianne Kitany spoke off the record)*

The Member for Aldai is saying Kiambu County. I can tell her that the billions in Kiambu County are for a trunk road – the highway which runs from ABC in Westlands all the way to Rironi. In the budget process, you will find a figure of about Ksh7 billion and imagine that roads in Kiambu County are all constructed, but they are not. That road runs from Westlands, through Dagoretti North, Dagoretti South, Kabete, Kikuyu and Limuru constituencies, and terminates before you get to Naivasha Constituency. I am saying this because we are accused of being involved in the implementation of Government projects. With tremendous respect to the former Prime Minister, I have also seen him add his voice to the debate that Members of Parliament and MCAs must never be involved in the implementation of projects. Why do the members of the public in Syokimau/Mlolongo Ward feel that their MCA is the one who should fix their road? Why do members of the public in Kikuyu Constituency feel that I should construct roads more than their governor, who has been given resources to construct their village roads? The public keeps coming to the Members of Parliament because they are efficient and effective in the application of the public resources that they superintend in NG-CDF. They oversee projects to ensure their proper implementation through NG-CDF and Constituency Roads Committee (CRC).

I have been to all the 290 constituencies of this country as we *tangatanga*. I still continue to *tangatanga* across the country. If you find a road being maintained, be it to murrum or bitumen standard, it cannot be by a county government. It is through the CRC, Kenya Rural Roads Authority (KeRRA), Kenya Urban Roads Authority (KURA) or Kenya National Highways Authority (KeNHA).

As I said, I will not be shocked if tomorrow a Member of Parliament is made to walk through mud by his or her constituents, which is very unfair because Members of Parliament do not have money to fix the roads. The people who are charged with fixing roads are the ones in KeRRA, KURA and KeNHA. They implement those projects in a manner that is not cost-efficient, effective and transparent. That is why there is bid-rigging in almost all those road agencies.

The only person we can trust to catch those thieves is the Office of the Auditor-General. The Auditor-General will be empowered by this Bill, when it becomes an Act of Parliament, to ensure that public officers apply public resources in a transparent, accountable, efficient and effective manner in the delivery of services ; in a manner that gives value for every coin of the peoples' taxes. This will ensure that Kenyans pay taxes happily. I do not know whether there is such a thing. This is because even in the Bible, Jesus Christ told the people to give unto Caesar what belongs to him, and to the Lord what belongs to Him. That tells you that even in those ancient times, during the time of Jesus Christ; people were not happy to pay Caesar. They were not happy to pay taxes. Today, we are encouraged to pay taxes but we should also ensure that we get value for them. If we do not get it, then we will find no reason to pay them.

Hon. Deputy Speaker, with those very many remarks, I urge Members to support all these amendments so that we can align the Public Audit Act with the Constitution, and what the courts found to be unconstitutional.

I request Hon. Naomi Waqo, the Deputy Whip of the Majority Party and gracious County Woman Representative for Marsabit County, to second.

*(A Member spoke off the record)*

*(Laughter)*

Yes. She is also a potential governor for Marsabit County. I believe Members of Parliament who transition to be governors do better than others. You can see from the example of Governor Gladys Wanga. Women governors do better than men. How I wish we can have a lady governor in Kiambu County, but I do not know who can do the job!

Hon. Deputy Speaker, I ask Hon. Naomi Waqo to second.

*(Laughter)*

**Hon. Naomi Waqo** (Marsabit County, UDA): Thank you, Hon. Deputy Speaker. I take this opportunity to second this Bill. As I do so, I must appreciate the words of wisdom from our Leader of the Majority Party on women leadership. He always supports women and will continue to do so until we achieve our goal.

The Public Audit (Amendment) Bill, 2024 is one of the best Bills. Our very able Leader of the Majority Party has taken us through it and moved it in a very able way. From his words, we can clearly see that once we approve this Bill, and we will all debate, we will give the Office of the Auditor-General the power that it needs. We will empower it so that the Public Audit Act can be exercised and be relevant now.

In Clause 6, we are amending the principal Act. The High Court declared the provisions of the Act unconstitutional. It reasoned that Section 4(2) of the Act resulted in unconstitutional effect by reducing the constitutional office of the Auditor-General to a statutory office, which must have affected it negatively. Once we pass this Bill, we will empower that office to run smoothly, to be effective and help the country.

Clause 2 of the Bill contains amendments of definitions of terms like ‘accounting officer’, ‘Auditor-General’, ‘effectiveness’, ‘lawful’ and ‘public entity.’ This is in line with the new proposal. Once we do this, we will have accountability and qualified people in the office. The challenge in some of our Government offices is having unqualified people for particular jobs.

If we have the right people like accountants who are qualified and professionals, then they can bring their professionalism into this, and to the Office of Auditor-General. Then we would be able to account and be good stewards that we need.

Hon. Deputy Speaker, Clause 4 of the Bill amends Section 5 of the Act, which is on the qualification for appointment as Auditor-General. It introduces additional requirements of being a practicing member of good standing in a professional body of accountants. Most of the time, we have public servants who have been identified in corruption cases. We suffer as a country because we keep on bringing back the people who have bad records. If we have a practising member of good standing in a professional body of accounting, then we will have taken care of that problem and safeguarded that office.

Again, I support and second this because Clause 6 seeks to repeal Section 8 of the Act, on Administrative Powers of the Office of Auditor-General, which include developing an organisational structure and staff establishment; and recruiting and promoting qualified and

competent staff – which most of the time is not the case. In the establishment of any office and recruitment of members of staff, let us have the face of this country. Many a times, the marginalised are not seen. We have qualified people but when you go to those offices, it is limited to a few. I would suggest that any office under any ministry should have the face of Kenya and people of good standing.

Clause 8 of the Bill proposes to amend Section 11 of the Act, which is about a vacancy in the office, by providing for conditions under which the position of the Auditor-General shall fall vacant, and proposes how it will be filled for clarity. Any gap creates many problems in any institution, and we cannot afford to have any gap in the Office of the Auditor-General. Once we have this amendment in place, there will be no lacuna. We will fill the office as soon as possible, and the continuation of the work will peak and it will be good.

Clause 9 of the Bill seeks to repeal Section 14 on developing and approval of organisational structure. This is also very important because we need to have a proper structure in place for the organisation to be effective and relevant, depending on what is happening in the country.

Clause 18 repeals Section 26 of the Act, on meeting and procedures of the Audit Advisory Board. It clarifies that the quorum should be three members instead of five. A quorum of five members affects the operations of the Board because when you do not get quorum, the meeting aborts and it affects the effectiveness of that organisation. Bringing the quorum to three is advantageous in many ways. It also improves the effectiveness since meetings can take place from time to time. That is why it is good to reduce the quorum from five members to three members.

Clause 25 amends Section 36 of the Act, which is on performance. It introduces progressive changes. First, it expands the scope of performance audit. Secondly, it replaces public money with public resources, which is broader; and, thirdly, it proposes that performance audits should be done at any time after the completion of any national or county project. This is very important because after the completion of a national or county project, we will not have a long time since the project and everything else will be fresh, and people will be able to debate and bring out everything depending on how the project has been taken, and what has happened. This will help us in accountability. It will also help any contractor to finish the project on time and be accountable enough.

With those many remarks, I fully second and support. Thank you.

*(Question proposed)*

**Hon. Deputy Speaker:** Next Order. Hon. Mwenje, do you want to say something?

*(Hon. Mark Mwenje spoke off the record)*

Okay, proceed.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Deputy Speaker. I rise to support the Bill. I have had the advantage of looking at the ruling, which I believe has set a very dangerous precedent.

If I am not wrong, that ruling set us on a path where if matters are not debated in Parliament on time, then those reports become irrelevant, regardless of what they contain. It exposed us to loss of public money. It is, therefore, important to pass this Bill. I believe that the Members of the Public Accounts Committee (PAC) and Public Investments Committee (PIC) are here and listening. I can see Hon. Sigei, and he ought to be listening to this issue. I notice that Section 48 of this Bill says that the auditor must report within a period of six months after the end of each financial year.

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I was in a meeting with the Auditor-General. One of the issues that came up during the discussion is that they must be able to report to the House within a period when we are sitting as a House; that, hopefully, they can do it earlier, within three or four months, so that they can report to the House around October. The House will be sitting in October and November, because we also have another three months. After that period, based on the ruling that was delivered by the court, the reports will become irrelevant. That means somebody can get away with it.

The specific ruling was against Nairobi City County. It is a case where somebody relied purely on timelines and technicalities so as to get away from the recommendations that were made by the County Public Investment Committee.

I support the issue that has been raised by the Leader of the Majority Party regarding some of the roads and infrastructure that are being done by the county. We need the Auditor-General to properly audit some of those projects. The other day, in one of my wards in Mowlem, in an area called Umoja III, residents blocked the entire Kangundo Road because of a sewer line that was affecting them.

The county governments, including Nairobi City County Government, have been pushing hard to be allowed to undertake some of those projects. We must say that it is only Kenya Rural Roads Authority (KeRRA), Kenya Urban Roads Authority (KURA) and Kenya National Highways Authority (KeNHA) that are able to undertake some of those projects. Some of the infrastructure that was done by the City Council way back in the 1990s has remained largely the same to-date. It is only the likes of KeRRA and KURA who are refurbishing and improving the infrastructure.

You can see in the reports of the Auditor-General that those institutions are able to clear quite a number of the projects that have been done by the national Government. We have a serious problem with quite a number of projects that were done by the county governments. We need the Senate to keenly look at those projects. Also, PIC and PAC should audit them. That will show us the big problem with projects that are done by the county governments. I do not want to say much on this issue. I believe, if we fail to pass this Bill, we will be in danger. It is important to notify the House that, as a result of that ruling, the audit committees need to be up to date.

Right now, every audit committee, be it PAC or PIC, should be getting ready to audit the reports of the Financial Year 2023/2024. Some committees are reviewing accounts for 2021/2022 and 2022/2023 financial years. As per this proposed Bill, it means that the accounts they are reviewing have been overtaken by time. In fact, we asked the Auditor-General to appeal this ruling. If this Bill is passed without setting aside those orders, it means that some of the work that PIC and PAC have been doing for the Financial Years 2021/2022 and 2022/2023 will be time-barred. So, they cannot act against the perpetrators.

It is important that we pass this Bill as it is. I want to suggest that the Departmental Committee on Justice and Legal Affairs liaises with the Auditor-General to ensure that they appeal this ruling so that, some of the reports of the Audit Committees are not rendered useless. We must not end up giving people who have stolen public money a chance to get away with that crime based on a technicality.

With those remarks, I beg to support.

**Hon. Deputy Speaker:** Hon. Oundo, you are the only one who is interested in this debate. I will let you contribute and then the Mover will reply.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Deputy Speaker. I stand to support the Public Audit (Amendment) Bill, 2024. I want to draw from my experience as a member of PAC since 2020, and from the very many interactions I have had with the Auditor-General.

I do not want to belabour the point on the various provisions as ably articulated by the Leader of the Majority Party, but allow me to make a few observations. Ordinarily, in any typical arrangement in any democracy, courts indirectly make laws. When a court invalidates any provision of the law, it behoves on Parliament to re-enact it to meet the ruling of the court, unless that ruling has been appealed against and has been set aside. That is what members of the public need to know. My colleagues need to bear that fact in their minds. That is one of the basic law courses one is taught at the university. That one of the processes of making laws is through the courts. That is the background upon which we are reviewing the Public Audit Act. This is in response to a court order that was issued and cited in the Memorandum of Objects and Reasons – the case between Transparency International (TI) versus the Attorney-General and the Auditor-General.

I want to mention a few issues on the amendments that are done in Clause 2 on the interpretation. We are creating the Office of the Auditor-General. An independent Office of the Auditor-General is being incorporated in accordance with Article 253 of the Constitution. Chapter 15 of the Constitution mentions several independent offices and constitutional commissions that ought to be body-corporates, like the Auditor-General. We are creating the Office of the Auditor-General to be distinct from the Auditor-General as set out in the Constitution. In essence, we are literally enhancing the powers and authority of that office. This is more than a mere constitutional office. It will be a body corporate, capable of suing and being sued, holding assets and related issues. Therefore, a decision must be drawn here. It is only the Auditor-General who is appointed under Article 229 of the Constitution who can append a signature on audit reports. It is important to draw such decision so that we have no issues at all.

Clause 8, which seeks to amend Section 11(b) by inserting Section 1A, is superfluous. I hope the Leader of the Majority Party is listening so that when we get to the Committee of the whole House, this amendment does not go through. The appointing authority of the Auditor-General is the President with the approval of Parliament. Section 1A reads:

“(1A) Where the term of the office of the Auditor-General is due to expire, the Auditor-General shall notify the appointing authority in writing of the contemplated vacancy, three months prior to the expiry of the term.”

The import of this provision is that the appointing authority cannot remember the day they appointed and when the term of eight years will come to an end. That means delegation of duty by the person who is supposed to do those administrative chores for the President, whom we passed a Bill to be the Head of Public Service.

I find this superfluous and unnecessary. What are we telling the people of Kenya? What happens if the Auditor-General himself does not notify the appointing authority? Are there any sanctions or penalties? I hope time allows so that we can drop this amendment. This is because the President, who is the appointing authority, ought to have records. Part of his duties is to have a checklist for every month or year.

Clause 19 purports to amend Section 14 of the Act. Again, this is duplication of Clause 6, which already provides for development of an organisational structure and self-establishment for the Office of the Auditor-General. What I find fairly interesting, and I do not know what was the thought of the drafters, is the question of the appointment of the Deputy Auditor-General. We know that the Office of the Auditor-General is a constitutional office. The moment we make it a body corporate, it ceases to be an individual. The only constitutional mandate that the Auditor-General has is to sign audit reports. There will be conflict of interest with the Auditor-General appointing a deputy without due process. If that is the case, why not have the Auditor-General and the Deputy-Auditor General serve the same term, so that if the Auditor-General is leaving, the Deputy Auditor-General leaves at the same time? Their term should end together. What happens if the Auditor-General appoints a deputy two months before

the end of the term? He will leave the incoming Auditor-General with a headache in his or her hands.

As I conclude, I want to comment on what the Deputy Minority Whip has stated. There is a ruling in respect of High Court Case No. HCAGR E082 of 2023, that assumes that if Parliament does not approve the audit report within three months, that report is rendered redundant, useless and incapable of being acted upon. That calls upon this House to make sure it prioritises the process of completing the approval of the audit reports. Otherwise, the exercise we are now undertaking will be an exercise in futility.

I hope we will be given adequate time to review the Bill, so that we can present the amendments in the Committee of the whole House.

With those remarks, I support.

**Hon. Deputy Speaker:** It is now time for the Mover to reply.

**Hon. Kimani Ichungw'ah** (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. I thank the Members who have contributed on this Bill. As they have all said, this is a very critical Bill at this time, especially in relation to not just aligning the provisions of the Public Audit Act to the court ruling and to the Constitution, but also in ensuring that we have a Public Audit Act that ensures that public resources are utilised in an effective and efficient manner and in a way that will ensure there is economic value to the people of Kenya.

We will be lining up this Bill for the Committee of the whole House. On some of the few reservations that I have heard from the speakers, I encourage even those who are not here to look at the Bill and see what else we can do to enrich it further. This is to ensure that the amendments that we bring in the Committee of the whole House only further enrich the Public Audit Bill and the Public Audit Act.

With those few remarks, I beg to reply.

*(Question put and agreed to)*

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

**Hon. Kimani Ichungw'ah** (Kikuyu, UDA): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Leader of the Majority Party?

*(Hon. Kimani Ichungw'ah consulted with the Clerk-at-the-Table)*

## PROCEDURAL MOTION

### EXTENSION OF SITTING TIME UNTIL CONCLUSION OF SPECIFIED BUSINESS

**Hon. Kimani Ichungw'ah** (Kikuyu, UDA): Hon. Deputy Speaker, I beg your indulgence to move a short Procedural Motion. The time now is 5.00 O'clock and the next order of Business is the Committee of the whole House on the Co-operatives Bill, (National Assembly Bill No.7 of 2024), which is quite a heavy Bill.

Noting that the House is supposed to adjourn at 7.00 p.m., I beg to move:

THAT, pursuant to the provisions of Standing Order 33(a), this House resolves to extend its sitting until conclusion of business appearing under Order No.12.

Order No.12 is Committee of the whole House. This will ensure that by the time we adjourn, we shall have finished with the Committee of the whole House.

Thank you, Hon. Deputy Speaker.

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Deputy Speaker (Hon. Gladys Boss) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Chairman (Hon. Omboko Milemba) in the Chair]*

#### THE CO-OPERATIVES BILL (National Assembly Bill No.7 of 2024)

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Members, you may resume your seats. We are in the Committee of the whole House to consider the Co-operatives Bill, (National Assembly Bill No.7 of 2024).

*(Clause 3 and 4 agreed to)*

#### Clause 5

**The Temporary Chairman** (Hon. Omboko Milemba): There is an amendment by the Departmental Committee Chairlady.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 5 of the Bill be deleted and substituted with the following new clause—

Application No.  
14 of 2008

5. (1) This Act shall apply to all Co-operatives in Kenya.
- (2) A Co-operatives register with the Office of the Commissioner for Co-operative Development established under section 6.
- (3) A Co-operative that is registered under the Sacco Societies Act, 2008 shall —
  - (a) comply with subsection (2); and,
  - (b) conduct business, be licensed, be regulated and be supervised by the Sacco Societies Act, 2008.
- (4) This Act shall apply in any case where there is any inconsistency on any matter between this Act and any other legislation.

Hon. Temporary Chairlady, the Committee resolved to introduce the subclause to provide that all SACCO societies shall be registered and regulated under the Co-operatives Act. Where there is conflict in the laws, the Co-operatives Act shall apply.

*(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)*

*(Clause 5 as amended agreed to)*

*(Clauses 6 and 7 agreed to)*

*Clause 8*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Chairlady, is there an amendment?

**Hon. Marianne Kitany** (Aldai, UDA): Yes. Hon. Temporary Chairman. I beg to move:

THAT, clause 8 of the Bill be amended—

(a) in paragraph (a) by deleting the expression (a);

(b) in paragraph (a) by deleting the expression ‘; and’ and substituting therefor the punctuation mark ‘.’

(c) by deleting paragraph (b).

The Departmental Committee resolved to delete clauses 8 (2) and 13 (2) (b) on the grounds that the professional bodies that exist are not registered with the registrar of societies. Therefore, they should not be used to discriminate against persons who may qualify for appointment as the commissioner or county director for co-operatives.

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)*

*(Clause 8 as amended agreed to)*

*Clause 9*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 9 of the Bill be amended by inserting the word ‘registration’ immediately after the words ‘responsible for the’ appearing in subclause (1).

The Departmental Committee considered submissions from members of the public and resolved to sponsor this amendment to clarify that the commissioner shall register co-operatives and the county director for co-operatives shall regulate the operations of co-operatives in the various counties, respectively.

Thank you.

*(Question of the amendment proposed)*

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

*(Clause 9 as amended agreed to)*

*(Clauses 10 and 11 agreed to)*

*Clause 12*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 12 of the Bill be amended—

(a) by renumbering the Clause as subclause (1);

(b) by inserting the following subclause immediately after subclause (1)—

“(2) The technical officers appointed under subclause (1) shall have relevant academic qualifications, competencies and experience in co-operative management and practice.”

The justification is that the minimum qualifications for appointment...

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Chairperson, please always capture the word amended.

**Hon. Marianne Kitany** (Aldai, UDA): Yes, amended. The proposal provides for the minimum qualifications for appointment as technical staff in the office of the county director of co-operatives.

I submit.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Leader of the Majority Party.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairman, I want to support.

Clause 12 gives the responsibility to the county public service board to appoint such number of technical officers to the office of the county director for co-operatives. The fallacy we find with many of our county governments and the county public service boards is that people resort to appointing people on the basis of whether they support the governors in the counties. We find many people being appointed to very important offices without having met the requisite qualifications.

I support the Departmental Committee’s position that all the technical officers to be appointed by the county public service boards must have the relevant academic qualifications, competencies and experience in co-operative management and practice. One cannot supervise the running of co-operatives if they do not know how co-operatives should be managed.

In order to improve the governance of our co-operatives across the board, whether it is in the dairy or coffee or tea sectors, it is important that those who are superintending over the governance of those co-operatives are people who have relevant skills and qualifications to avoid a situation where a county public service board goes to a village and, because a certain Mr Kimani Ichung’wah is a very good supporter of the governor or the local member of county assembly (MCA), despite being a Class 7 or Class 8 drop-out with no relevant skills and experience in that area, is appointed to sit in that board. We find many county public service boards appointing the hecklers in their towns and villages to very important positions. Therefore, what the Committee is doing is important. It is trying to ensure that they appoint people who have relevant skills and training in the particular sector.

I support, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

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

*(Clause 12 as amended agreed to)*

### Clause 13

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 13 of the Bill be amended-

- (a) in paragraph (a) by deleting the expression (a);
- (b) in paragraph (a) by deleting the expression ‘; and’ and substituting therefor the punctuation mark ‘.’
- (c) by deleting paragraph (b).

The justification is that the bodies that are being referred to do not exist and, therefore, that will discriminate qualifications.

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)*

*(Clause 13 as amended agreed to)*

### Clause 14

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 14 of the Bill be amended by inserting the words ‘regulating the operations including’ immediately after the words ‘responsible for’ appearing in subclause (1).

Members of the public resolved that the sponsor of this amendment should clarify that the commissioner shall register co-operatives, and the county government should regulate the co-operatives.

Thank you.

*(Question of the amendment proposed)*

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

*(Clause 14 as amended agreed to)*

### Clause 15

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 15 of the Bill be amended by deleting the word ‘three’ and substituting therefor the word ‘five’ appearing immediately after the words ‘committee member within’

The purpose of this amendment is to allow the counties to submit audited reports five months after a financial year ends.

Thank you.

*(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 15 as amended agreed to)*

*(Clause 16 agreed to)*

#### Clause 17

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 17 of the Bill be amended—

(a) in paragraph (d), by deleting the word ‘and’;

(b) by inserting the following paragraph immediately after paragraph

(d)—

“(da) alternative dispute resolution among the members under section 16(1) on any Co-operative matter that relates to consultation, administration and operation of co-operatives.”

This amendment seeks to provide a forum that shall act as a mechanism for alternative dispute resolution amongst members of the technical committee.

*(Question of the amendment proposed)*

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

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

*(Clause 17 as amended agreed to)*

*(Clauses 18 and 19 agreed to)*

#### Clause 20

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

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THAT, Clause 20 of the Bill be amended by inserting the following subclause immediately after subclause (3) —

“(4) A person may join two or more co-operatives that do not share the same objectives or purposes.

(5) A person under subsection (1) shall—

(a) disclose membership and financial liability to a co-operative registered under this Act to the commissioner; and ,

(b) submit a letter from a co-operative under paragraph (b) confirming the nature and extent of financial liability, to the commissioner and to a co-operative that a person applies to register as a member;

(6) A primary co-operative may be formed by at least twenty persons.”

This is to ensure that persons who apply for membership in more than one primary co-operative disclose their membership and financial liabilities to the commissioner and to the prospective co-operatives.

*(Question of the amendment proposed)*

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

*(Clause 20 as amended agreed to)*

### Clause 21

**The Temporary Chairman** (Hon. Omboko Milemba): Is there an amendment on this one, Hon. Chairperson?

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 21 of the Bill be deleted and substituted with the following clause—

Prohibition against  
multiple objects in  
primary co-  
operatives

21. (1) The Commissioner shall not register a primary co-operative that has more than one objective under section 20(2).

(2) A person may apply to the commissioner to register a primary co-operative with more than one objective under subsection (1).

(3) The Cabinet Secretary may make regulations generally for the better carrying into effect the provisions under subsection (2).

The justification is that co-operatives may not be registered without the approval by the commissioner.

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)*

*(Clause 21 as amended agreed to)*

*Clause 22*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 22 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause —

“(2) A secondary co-operative shall comprise of membership from at least five primary co-operatives.”

The justification is that membership of a secondary co-operative should be in compliance with clause 29 of the same Co-operatives Bill.

*(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)*

*(Clause 22 as amended agreed to)*

*Clause 23*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 23 of the Bill be amended—

- (a) in subclause (1), by deleting the word “subsector” appearing in paragraph (a);
- (b) in subclause (2), by deleting the words “business line or Co-operative subsector” and substituting therefor the words “or business line”;
- (c) by inserting the following new subclause immediately after subclause (2) —

“(3) A Co-operative federation shall comprise of membership from at least two secondary Co-operatives.”

This is to allow a co-operative federation to comply with Clause 29 of this Bill, and to also make it easier for a group of people to form a co-operative, thus reducing the current threshold from 25 to 20 persons.

*(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 23 as amended agreed to)*

*(Clauses 24, 25 and 26 agreed to)*

*Clause 27*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:  
 THAT, Clause 27 of the Bill be deleted and substituted with the following new clause—

Registration, regulation and operations of Apex Co-operative	27. The Cabinet Secretary shall make regulations on registration, regulation, governance and management of the Apex Co-operative.
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The justification for the amendment is to make the wording clear and comply with the National Assembly drafting style.

*(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)*

*(Clause 27 as amended agreed to)*

*(Clause 28 agreed to)*

*Clause 29*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:  
 THAT, Clause 29 of the Bill be amended—

- (a) in paragraph (a) by deleting the word “-five”;
- (b) by deleting paragraph (b) and substituting therefor with the following paragraph—  
 “(a) by at least five primary Co-operatives in case of registration of a secondary Co-operative; or”

The justification for this was to correct grammatical errors in sub-clause 1(b), and to provide the minimum number of persons required to register as a primary co-operative as 20, and five co-operatives in the case of secondary co-operatives.

*(Question of the amendment proposed)*

*(Hon. Gathoni Wamuchomba spoke off the record)*

**The Temporary Chairman** (Hon. Omboko Milemba): You are in order to contribute now that I have proposed the Question of the amendment. You may proceed to speak on this.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, I just wanted the Chairperson to clarify something. When she says that five primary co-operatives can register as a secondary co-operative, do those five primary co-operatives have a minimum threshold in terms of the number of members each should comprise of?

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Chairperson.

**Hon. Marianne Kitany** (Aldai, UDA): Thank you, Hon. Temporary Chairman. A primary co-operative shall have a minimum of 20 members. We are proposing that five primary co-operatives can form a secondary co-operative, which means that if each primary co-operative has a minimum of 20 members, then the five primary co-operatives will have 100 members. That is the minimum number of members that a secondary co-operative should have. Each primary co-operative has a minimum of 20 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)*

*(Clause 29 as amended agreed to)*

### Clause 30

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 30 of the Bill be amended—

- (a) by renumbering the clause as sub-clause (1);
- (b) by inserting the following new sub-clause immediately after sub-clause (1)—
  - (2) A person may apply to the Commissioner for exemption of the requirements under sub-section (1).
  - (3) The Cabinet Secretary may make regulations generally for the better carrying into effect the provisions under sub-section (2).

The justification is to provide that a Co-operative may not be registered for more than one purpose without the approval of the Commissioner.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Allow me to come back to the Vice-Chairlady of the Committee presenting the amendments to clarify to us whether there is a criterion the Commissioner may use in the approval.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, Clause 20 creates various types of co-operatives. There are producer co-operatives, housing co-operatives, transport co-operatives, worker co-operatives and so on. Under this clause, a person cannot be in more than one co-operative unless the Commissioner approves the type of co-operative. The types of co-operatives are already taken care of under Clause 20.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I want to educate Members that there ought to be a criterion, but that will fall within regulations. You cannot regulate such minor details. We need to give discretion or some powers to the Commissioner so that whenever there is a conflict, they can administratively solve it without going to rigorous processes. The criteria will be in the regulations.

**The Temporary Chairman** (Hon. Omboko Milemba): Vice-Chairlady, please, approach the Table as Hon. Wamuchomba proceeds.

*(Hon. Marianne Kitany approached the Table)*

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, I need to be on record that the reason we were earnestly looking forward to this Bill is because of the mess that commissioners for co-operatives have caused in our primary co-operatives. There have been a lot of issues, irregularities and lack of standards and other processes within our co-operatives that are supervised by the commissioners. We have lost a lot of money and assets belonging to primary and producer co-operatives under the sanction of the same commissioners. If we do not assert ourselves on matters of regulations, what is the criteria? We must protect farmers, especially producers, from the extremes we have registered in the past.

Just to explain a little - I know I am not supposed to be debating - there are co-operatives whose money has been lost from their accounts under the sanction of the same commissioners for co-operatives. How do we make a new law and still accommodate them by giving them the same power they had? That was the spirit of the new Co-operatives Bill. We must be clear. If we are giving them power to authorise, then to what extent? That is what Hon. Oundo is saying. Otherwise, we are going to get ourselves back to where we were. The reason most farmers have lost their assets and property is because somebody in the name of the commissioner sanctioned it. How do we tame them so that they do not misuse the power we give them through this Bill? Otherwise, it will be retrogressive to have a new Co-operatives Bill and still give the same offenders an opportunity to repeat the offence.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba, we hear you very well and you are very clear. Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): This stage is where laws are made. At the Second Reading stage is *gumzo mtaani*.

*(Hon. Gathoni Wamuchomba consulted with a Member)*

Ask the Member to pay attention because then I will be talking to myself.

**The Temporary Chairman** (Hon. Omboko Milemba): Order. Hon. Wamuchomba. You were arguing very well, and Hon. Oundo would want you to hear you on this.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): They are engaged in some banter as Members from Kiambu.

Hon. Wamuchomba, the National Co-operatives Policy we passed in the last Parliament was to address the fears you are raising. There used to be briefcase promoters of co-operative societies, who would register gullible members. The principle of co-operatives is people with a common bond and a democratic right to vote whoever they want. We are saying that someone can apply for exemption. However, that exemption is going to be guided by the regulations. The Member can look at the amendment under Clause 30(3) that clearly explains that regulations will set out procedures where the exemption can be granted or denied.

It is unfortunate that she is busy. We can proceed.

**Hon. Marianne Kitany** (Aldai, UDA): If you look at the current co-operatives, you will find instances where individuals register co-operatives for dishonest purposes, such as in cases like the Ekeza Sacco, where people lost money. Those co-operatives are registered with the sole purpose of conning the common man. Therefore, if a co-operative already exists and is serving the same purpose, there is no need to register another co-operative to do the same.

In my constituency, for example, we grow tea. Therefore, if there is already a co-operative that is focused on tea growing, there is no need to register another tea-growing co-operative with the same membership. That would mean that the other co-operative would exist for the purposes of conning members. That is why we are saying that in scenarios where a co-operative already exists, the commissioner will step in to investigate why there is an attempt to

create another co-operative when one already exists. That is the only power we are giving to the commissioner, which is to ensure that the unsuspecting *mwananchi* is not conned.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Therefore, these powers are specific to the registration of new co-operatives and not members.

**Hon. Marianne Kitany** (Aldai, UDA): Yes. New co-operatives.

**The Temporary Chairman** (Hon. Omboko Milemba): Let me hear from Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you very much, Hon. Temporary Chairman. When we were conducting public participation on this matter, one of the key issues that emerged was the need to address governance within the co-operatives themselves. This is one of the key issues that the co-operative commissioner will do, so that we try to make co-operatives sustainable and economically viable. This is one of the reasons why after extensive public participation, those powers were given to the commissioner. This will enable us to delimit boundaries and say, for example, if co-operative X already exists, let everybody in co-operative T belong to that one co-operative instead of having fragmented co-operatives which may eventually lead to small co-operatives that are not sustainable.

For that reason, we should support these amendments.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

*(Hon. Gathoni Wamuchomba spoke off the record)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba, you have one minute because we had heard you extensively.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, I ask to be forgiven for bringing these issues so heavily because...

**The Temporary Chairman** (Hon. Omboko Milemba): There is no forgiveness here. Just state your point.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, pardon me for re-projecting the issue. The issue that has been there and one that we wanted to sort out once and for all through this law is the issue of somebody coming up with a co-operative society, fleecing Kenyans of their money and, after two years, de-registering the co-operative and registering it again. That is what I want an assurance for. For me to support this, I need an assurance that, that problem will be sorted out.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba, I was a keen follower of this debate and a very interested person. They explained well and keenly when you were talking to the Leader of Majority Party that, that is exactly what they have corrected.

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

*(Clause 30 as amended agreed to)*

*(Clauses 31, 32, 33, 34 and 35 agreed to)*

*Clause 36*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 36 of the Bill be amended in subclause (1) by deleting the words “body corporate” and substituting therefor with the words “corporate body”.

This is basically for re-drafting to make it clear, especially with regard to the term ‘corporate body’, and to bring consistency and clarity in the Bill.

*(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)*

*(Clause 36 as amended agreed to)*

*(Clauses 37, 38, 39, 40, 41, 42 and 43 agreed to)*

#### *Clause 44*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 44 of the Bill be amended in subclause (2), by deleting the words “or the board of directors’ subject to ratification by the members at a general meeting”.

This amendment is to prevent the misuse of the power to ratify at the annual general meeting (AGM).

*(Question of the amendment proposed)*

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

*(Clause 44 as amended agreed to)*

*(Clauses 45 and 46 agreed to)*

#### *Clause 47*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 47 of the Bill be deleted.

We are deleting this clause to remove the limitation of membership to producer co-operatives as it is discriminatory. The clause only mentions one type of co-operative.

*(Question of the amendment proposed)*

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

*(Clause 47 deleted)*

*(Clauses 48 and 49 agreed to)*

#### *Clause 50*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 50 of the Bill be amended by inserting the following new subclause immediately after subclause (1)—

“(2) The provisions of subsection (1)(d) shall apply in compliance with the Data Protection Act, 2019.”

This amendment is to provide for compliance with the Data Protection Act.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Proceed, Hon. Wamuchomba.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, allow me to thank the Vice-Chairperson and the members of the Committee who saw it fit to bring this amendment. I fully support it. In the past, producer co-operatives have had their information leaked to SACCOs, lenders, commercial ventures and suppliers to fleece them of their money. This is a very good amendment.

I was one of the Members who contributed to the drafting and passage of the Data Protection Act, 2019 in the previous Parliament. I am happy we are aligning this Bill to that Act.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you, Hon. Temporary Chairman. This was one of the concerns during the public participation on how data can be misused. We, therefore, considered it necessary to insert a provision that the data should be protected. I also want to join Hon. Wamuchomba on the same. We served together in the Departmental Committee on ICT in the last Parliament that passed the Data Protection Act. This is a progressive move and it is in line with our current laws.

I support.

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

*(Clause 50 as amended agreed to)*

*(Clauses 51, 52, 53 and 54 agreed to)*

*Clause 55*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai, UDA): Thank you, Hon. Temporary Chairman, I beg to move:

THAT, Clause 55 of the Bill be amended by inserting the following new subclause immediately after subclause (13)—

“(14) A document required to be filed under this section may be filed as a hard copy or as an electronic copy.

(15) The Commissioner shall facilitate filing of records under subsection (14).”

The justification of the proposed amendment is to provide for electronic filing of any records.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Mayaka.

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**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Chairman. I want to support this amendment on the insertion of the hard copy or electronic copy. This complies with the current practise where electronic copies and evidence are allowed. For that fact, I support the amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, I wish to support this amendment. This is a progressive move. The Government is currently undertaking digitisation of all its records. In terms of good governance and the Mwongozo Code of Governance for State Corporations practise, it will be in order that co-operatives not only file good records in terms of physical copies, but also have digital copies that can be accessed virtually.

I support.

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

*(Clause 55 as amended agreed to)*

*(Clause 56 agreed to)*

#### Clause 57

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai, UDA): Thank you, Hon. Temporary Chairman, I beg to move:

THAT, Clause 57 of the Bill be amended —

(a) by inserting the following new subclause immediately after subclause (2)—

“(2A) Where a co-operative does not comply with subsection (1), a member of a co-operative may write to the commissioner or county director of co-operatives to convene a meeting under subsection (1), two months after receipt of the certificate of registration of the co-operative.”

(b) in subclause (3), by deleting the words “In subsequent years, a co-operative” and substituting therefor the words “A co-operative that has complied with subsection (2),”

The justification is to enable a member of a co-operative to write to the commissioner or the county director of co-operatives to convene a meeting where the directors of a co-operative have failed to call for a meeting.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, I rise to fully support this amendment. The justification given by the Chair is applicable. I note that this is going to sort out a lot of governance issues that have been experienced in the past where, for example, directors of co-operatives colluded with the commissioner of co-operatives to do things that were against the members of the society. Therefore, I support.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, one of the big problems that befell co-operatives - and that is what we are trying to sort out - was the question

of directors refusing to call meetings. That has not only led to the collapse of co-operatives, but also the loss of millions of shillings of hard-earned money by farmers and depositors. This, therefore, gives members the opportunity to call such directors to order by writing to the commissioner, thereby forcing a meeting to be called.

I support.

*(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)*

*(Clause 57 as amended agreed to)*

*(Clauses 58, 59, 60 and 61 agreed to)*

Clause 62

**The Temporary Chairman** (Hon. Omboko Milemba) Mover.

**Hon. Marianne Kitany** (Aldai UDA): Thank you, Temporary Chairman, I beg to move:

THAT, Clause 62 of the Bill be amended—

(a) in sub-clause (2), by inserting the words “one term of three years” immediately after the word “re-election”;

(b) in sub-clause (5) by inserting the following new paragraph immediately after paragraph (a)—

(aa) the appointment of two thirds of the directors is done at different times to ensure continuity in the governance of a co-operative.

The justification is to provide for staggered appointment of directors. This is to ensure that there is institutional memory and to provide for a term limit that a person may serve as a director.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Let me hear from Hon. Mwalimu Dorothy Muthoni.

**Hon. Dorothy Muthoni** (Nominated, UDA): Thank you, Hon. Temporary Chairman. I support this amendment. It will go a long way in improving governance. When people have a limited term of office, there will be transparency and accountability. I strongly support this amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, if there was any clause that elicited emotions, strong and passionate discussions and debate during public participation in villages and various county headquarters, it was the issue of the term limit for directors. It was a very emotive issue. To help marry the different views, the Committee felt that the terms must be staggered so that there is institutional memory. Secondly, we said that

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one cannot serve for more than a certain number of terms. You can serve, take a break, then come back. It is neater that way. Remember, they are more or less like executive directors. They handle finances and manage assets. If there is a cry of embezzlement or misuse of resources, there should be a break in between terms to look at the cry.

Let me give you an example. A *Mzee* in the Mt. Kenya region joined a co-operative as a director in his early 20s. He did not even have a bicycle. By now, he has a fleet of transport vehicles and is the richest person. He can have his way in all the elections. You cannot beat him in an election.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Your point is made. Hon. Adagala Beatrice. That is the last request we are taking and then I take the amendment to the wire.

**Hon. Adagala Beatrice** (Vihiga County, ANC): Thank you, Hon. Temporary Chairman. Hon. Oundo has explained what we received from the public in complaining about the directors. This amendment will cure whatever concern is there. It will provide better governance in co-operatives.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Members, that is enough. We really must move.

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

*(Clause 62 as amended agreed to)*

*(Clauses 63, 64, 65, 66, 67, 68, 69, 70, 71 and 72 agreed to)*

**Hon. Anthony Oluoch** (Mathare, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): What is the point of order, Hon. Anthony Oluoch?

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, I do not know whether I missed something. Was New Clause 62A moved, or was it moved as part of Clause 62, which deals with the payment of expenses? If it was dropped, then I stand corrected.

**The Temporary Chairman** (Hon. Omboko Milemba): We are very much aware of New Clause 62A, which will be moved as a new clause. Hon. Chairperson, do you have a comment on this?

**Hon. Marianne Kitany** (Aldai, UDA): I want to clarify to the Member that it is a new clause. It will be moved later.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Hon. Anthony Oluoch, are we together? We may proceed.

*Clause 73*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move: THAT, Clause 73 of the Bill be amended—

(a) in subclause (1), by deleting the word 'made' and substituting therefor the word 'make' appearing immediately after the words 'instructions of the';

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

“(3) A County Director for Co-operatives shall issue written notice to an employer who operates within the boundaries of a county for the sum owing under subsection (1).

(3A) The Commissioner shall issue written notice to an employer who operates beyond the boundaries of a county for the sum owing under subsection (1).

(3B) Where an employer does not respond to a notice issued under subsection (3), a County Director for Co-operatives shall notify the Commissioner in writing of an employer who has not complied with a notice issued under subsection (3).

(3C) The Commissioner shall, by written notice, appoint any person, bank or institution to be an agent of the Co-operative for the purposes of collection and recovery of a debt owed to the Co-operative and that has not complied with a notice under subsection (3).”

This clause elicited many responses and comments from the county governments and the Ministry. This amendment will enable the county governments to issue demand notices as proposed by the submissions of the Joint Technical Committee from the State Department, Ministry of Co-operatives and Micro, Small and Medium Enterprises Development and the Council of Governors.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, one of the things that we grappled with during public participation was to set out boundaries and limits of a county director to the extent that we do not allow arbitrariness where notices are issued without reference to the provisions of Article 47 of the Constitution. This new amendment enables notices to be issued, but to the extent that they must be reasonable and take into account the right to fair administrative action to the affected members.

Thank you.

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Wamuchomba.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, I rise to note the proposed amendment in clause 73(b)(3C) which says that the commissioner shall, by written notice, appoint any person, bank or institution to be the agent of the co-operative for the purposes of collection and recovery of a debt owed to the co-operative.

Forgive me if I am out of place, but I want to get a clarification from the Chairperson. When the commissioner is writing those notices, is it in consultation with the annual general meeting resolutions of the members of the same co-operative?

**Hon. Marianne Kitany** (Aldai, UDA): Thank you, Hon. Temporary Chairman. Yes, he will do it in consultation with the annual general meeting resolutions. By the time those notices were written, the co-operative had not complied. Because of the lack of such compliance, the members within the co-operative will suffer. Therefore, the notice is very important to ensure that those co-operatives always comply. Where they fail to comply, the notices will compel the co-operatives to comply and provide the required information. By the time the notices are given, they will have already been notified.

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)*

*(Clause 73 as amended agreed to)*

*(Clauses 74, 75 and 76 agreed to)*

*Clause 77*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Speaker, I beg to move:

THAT, Clause 77 of the Bill be deleted.

The reason for this amendment is to ensure that co-operatives exercise due diligence in mitigating risks and insures loans, in case of the death of a member.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, this deletion would save a situation whereby the estates of a deceased person who had no idea about debts or liabilities that they had and have no means by which to meet them are saved from being auctioned and run down. This has happened in many instances and so, this is a good provision.

Therefore, Hon. Temporary Chairman, I support.

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

*(Clause 77 deleted)*

*Clause 78*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Chairlady.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 78 of the Bill be amended by deleting subclause (3) and substituting therefor the following new sub clause—

“(3) All transfers and payments made by a co-operative in accordance with this section shall be—

(a) valid and effectual against any demand made upon the co-operative by any other person

(b) paid within sixty days.”

The justification is to enable payment of any demand to a co-operative within 60 days of the death of any member.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Let us hear from the economist, Hon. Makali Mulu.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Chairman.

That amendment is very important and, more so, when you fix the time in which money must be paid. That is because there have been unnecessary delays in those payments.

Hon. Temporary Chairman, I support.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, if there is anything that has made the members of producer co-operatives go bankrupt and dissolve co-operatives, fight and kill each other, it is this. For example, the famous Mbo-i-Kamiti Farmers Company in Kiambu County, where members have killed each other over allegations of some members working behind the scenes to be the debt collectors on behalf of the co-operative for other third parties. This is amazingly welcome.

Hon. Temporary Chairman, I support.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well, 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)*

*(Clause 78 as amended agreed to)*

*(Clauses 79, 80, 81, 82, 83 and 84 agreed to)*

#### Clause 85

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 85 of the Bill be amended by inserting the words "in regulations under by the Cabinet Secretary" appearing immediately after the word "prescribe."

The justification is to provide clarity on that clause.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Mayaka, is it a point of order, or do you want to contribute? Yes, go on.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Chairman. The Chairlady needs to clarify this because her amendment talks about 'Prescribe,' but the Bill states, 'Prescribes.' Semantically speaking, those words have two different meanings. The Chairlady should clarify that.

**The Temporary Chairman** (Hon. Omboko Milemba): Would you bring out the meanings now that you seem to be 'English-English'?

**Hon. Irene Mayaka** (Nominated, ODM): Hon. Temporary Chairman, "Prescribe" is the continuous tense, while "Prescribed" is the past continuous tense.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you for your magnanimity. Yes, Chairlady.

**Hon. Marianne Kitany** (Aldai, UDA): Thank you, Hon. Temporary Chairman. I will adopt the amendment of the Member and use 'Prescribe' instead of 'Prescribed.'

**The Temporary Chairman** (Hon. Omboko Milemba): Okay. Hon. Antony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, we are dealing with different issues here. The proposed amendment seeks to insert the words "in regulations under by the Cabinet Secretary" appearing immediately after the word "prescribe." As per the Order Paper, this word should be the same as in the Bill.

In the Bill, Clause 85 reads:

“(85) A Co-operative shall not invest its funds or members’ deposits in non-core activities beyond any limits as may be prescribed.

If you use Hon. Mayaka's context, it will read, as may be prescribe. In my view, that is not good English.

*(Hon. Irene Mayaka consulted loudly)*

**The Temporary Chairman** (Hon. Omboko Milemba): Order, Hon. Mayaka. English is being dealt with and so, pay attention.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Mayaka has said the correct word is “prescribe.” This is correct English if you are reading the Order Paper. But, if you read the Bill, that word will make the sentence incorrect. The Bill reads, "beyond any limits as may be prescribed." What the amendment is dealing with is not anchored on the word "prescribed." It merely adds the words "in regulations under by the Cabinet Secretary," appearing after the word "prescribe." The word in the Order Paper should have been "prescribed" as per the Bill. Thank you.

**The Temporary Chairman** (Hon. Omboko Milemba): We are together. Hon. Vice-Chairlady, do you still want to comment on this?

**Hon. Marianne Kitany** (Aldai, UDA): I agree with Hon. Anthony Oluoch that the word should be “prescribed” as in the Bill.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

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

*(Clause 85 as amended agreed to)*

Clause 86

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move: THAT, clause 86 of the Bill be amended by deleting subclause (4) and substituting therefore the following new subclause –

“(4) The Cabinet Secretary shall enact regulations on investment in companies including operations of holding co-operatives.”

The justification is to empower the Cabinet Secretary to enact regulations on investment in companies, including operations of holding co-operatives.

*(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)*

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*(Clause 86 as amended agreed to)*

*(Clauses 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105 and 106 agreed to)*

*Clause 107*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 107 of the Bill be amended —

- (a) in subclause (1) by deleting the word “or” and substituting therefor the word “and” appearing immediately and after the words “was registered” in paragraph (c).
- (b) by inserting the following subclause immediately after subclause (1)—  
“(1A) A County Director of Co-operatives may recommend to the Commissioner to cancel and dissolve a Co-operative that has not complied with the provisions of subsection (1) for a period of not less than ten years.”

The justification for this is to prevent arbitrary cancellation of registration of a co-operative and to assign the role of recommending to the Commissioner the de-registration of dormant co-operatives to the county directors of co-operatives because they are well aware of more dormant co-operatives as opposed to the commissioner himself.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Let us hear Hon. Wamuchomba on this.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Chairman, I have reservations about this amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): Proceed. We hear you.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Because county governments' chief executive officers (CEO) are politicians, they will work towards limiting any other activity that may come from a perceived competition. I want to give an example of the current situation right now where women representatives like the ones in the House can confirm with me that they have a fund called the National Government Affirmative Action Fund (NGAAF), where they put money in small self-help groups and welfare associations which may grow to become co-operatives. Sometimes, county governors have issues with that growth because they are backed by politicians who are perceived as competitors. How do you sort out that issue? For me, I have a reservation for this amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba, then tell us what to do. Meanwhile, let me give it to Hon. Anthony Oluoch. Remember, this is the Third Reading and so, just go for specifics on the law. We shall come back to you later.

Hon. Anthony Oluoch, proceed.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, a clear reading of this and I hope Hon. Wamuchomba is listening...

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba, your attention is needed.



**Hon. Anthony Oluoch** (Mathare, ODM): I wanted you to hear this because, first of all, the powers of cancellation belong to the commissioner and not to the county director. If you look at Clause (b) on the Order Paper, it says that a county director may recommend. So, for your comfort and purposes of any potential interference by political people, it is a recommendation. Remember what the Hon. Chairman said. This amendment is also meant to avoid arbitrariness. We have removed that. We did consider this by Hon. Wamuchomba. It came out in public participation that witch hunts and political differences may lead to people sabotaging at that level. So, we elevated the power for cancellation away from the director to the commissioner. The commissioner then would have to comply with the provisions of Article 47, due processes and other things. It is a good amendment.

Thank you.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. (Dr) Oundo, you only have one minute.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Wamuchomba, please, let me allay your fears. We took care of the interests of the people of Kenya and applied ourselves adequately on this matter. Having been on this Committee since the last term, and having interacted with this matter, I know where the problem lies. One of the saving graces is that the registration certificate is being issued by the commissioner so that we do not have any situation where, as we allay the fears, that the county governors may decline to give a certificate of registration for the corporate societies when they think they are more powerful than them and will influence the political process. In the same way, those account directors are professionals. So, they are bound by some professional ethics. When they make a recommendation, again, the commissioner of the co-operative will have to undertake due diligence, do an investigation and satisfy themselves if the reasons given for cancellation or dissolution are valid and not politically motivated. Hon. Wamuchomba, the Bill states thus:

“A person aggrieved by an order of the Commission under subsection one may appeal against such an order to the corporate tribunal within 30 days of that order.”

The safeguards are adequate. We were fairly well exposed and we know what to do. When I am here, you can take comfort.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

*(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)*

*(Clause 107 as amended agreed to)*

*(Clauses 108, 109, 110 and 111 agreed to)*

*Clauses 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122 and 123 agreed to)*

Clause 124

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

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**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 124 of the Bill be amended in subclause (2)—

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

“(b) two deputy chairpersons; and,”

in paragraph (c), be deleting the word "five" and substituting therefor the word "six" appearing immediately after the word "than."

The justification is that it will provide for two deputy chairpersons in the tribunal. This is an expansion of the tribunal's membership to nine members, allowing the tribunal to have, at least, three panels that can move across the country. That is because we realised that we have so many cases with the tribunal and, therefore, expanding the tribunal will help sort out the issues in the country on co-operatives.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Dorothy.

**Hon. Dorothy Muthoni** (Nominated, UDA): Thank you, Hon. Temporary Chairman. I support this amendment to have two deputies. This is because a tribunal takes care of all the issues in the co-operative movements.

Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Chairman. I support the first part of the amendment, but I am concerned about the second one. My concern is that if we increase the number of the tribunal members to six, I foresee a situation where if there is a need for a vote, this will be an even number. I would not advise us to have an even number there. Ideally, we should have an odd number so that we get a clear direction in case of a vote.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Anthony Oluoch. I think this Committee is well guarded with its Members. Hon. Anthony Oluoch, let us hear you.

**Hon. Anthony Oluoch** (Mathare, ODM): Guarded by none other than yours truly. Hon. Mayaka is my very good friend. Hon. Mayaka, the clause there says five other members, but it has now expanded to six. Remember, there is a chairperson and so, if the tie is broken by one, it becomes seven.

My contribution is that one of the reasons I support this amendment is also for gender reasons. This is so that when you have two deputies, it is possible to have one being of the other gender. It is also a very progressive provision.

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)*

*(Clause 124 as amended agreed to)*

*(Clauses 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152 and 153 agreed to)*

*Clause 154*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

That clause 154 of the Bill be amended by inserting the following subclause immediately after subclause (2)—

“(2A) The application of the Fund established under subsection (1) shall be distributed as follows—

(a) sixty percent to the National Government; and,

(b) forty percent to the county government.”

The justification is to provide that the Co-operative Development Fund be shared between the national and county governments in a 60:40 ratio.

*(Question of the amendment proposed)*

**Hon. Anthony Oluoch** (Mathare, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, I support this amendment, but I want to persuade my Chairperson and Vice-Chairperson that a similar provision has been put under clause 154(2), that the source of the funds shall consist of the contributions made by the co-operatives in the sums and rate as the Cabinet Secretary shall prescribe. But when you go to sub-clause (3) of the Bill on how that fund shall be applied in terms of what it shall do... I do not know. I want to persuade my Chairperson to consider including a provision requiring the Cabinet Secretary to provide regulations on how those funds can be applied and utilised.

Otherwise, I support.

**The Temporary Chairman** (Hon. Omboko Milemba): You need to move an amendment.

**Hon. Anthony Oluoch** (Mathare, ODM): If possible, we need to move these provisions later in an amended form.

Thank you. But I support.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Chairperson, any comment?

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, it is a proposal that can be looked into. Perhaps, once that fund is in place, we can bring that amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): You have been doing very well. So, have a *tête-à-tête* with your Member across the aisle. That should be able to take us forward.

*(Laughter)*

Let me hear Hon. Mayaka on this.

**Hon. Irene Mayaka** (Nominated, ODM): Hon. Temporary Chairman, I support the amendment on 2A because specifying the 60 and 40 per cent allocation is helpful. It reduces the regulatory burden on the Cabinet Secretary since this has already been included in the law.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

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

*(Clause 154 as amended agreed to)*

*Clause 155*

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 155 of the Bill be amended—

(a) in sub-clause 2:

- (i) by deleting the words 'sub-sector,' appearing in paragraph (dd);
- (ii) by deleting the word “and” appearing immediately after the word “webinar;” on paragraph (kk)
- (iii) by inserting the following paragraph immediately after paragraph (kk) —

“(kka) provide guidelines for affirmative action for the benefit of special interest groups of women, youths, persons with disabilities, and minority and marginalised communities in co-operatives.”

The justification for this is to empower the Cabinet Secretary to prescribe affirmative action guidelines for the benefit of special interest groups of women, youths, persons with disabilities, and minority and marginalised communities in co-operatives in compliance with the Constitution.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Wamuchomba.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, women have been the labourers for a long time when it comes to the primary producer co-operatives. They work hard to produce milk but, when it comes to the accounting behind the milk card, only men are considered. Therefore, women end up being labourers, but they are not the earners. I am very excited to see this amendment because it will finally ensure that the affirmative action guidelines that are needed in co-operative societies are put in place. The women and youths of Kenya and other special interest groups, which are usually sidelined when it comes to earning revenues, will now be heavily considered.

Githunguri is the biggest producer of milk. However, we struggle to ensure that the women who milk the cows receive their dues. I am happy that this is now happening because we have been struggling to find ways and means of ensuring that women can earn money.

I support the amendment 100 per cent.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Dorothy.

**Hon. Dorothy Muthoni** (Nominated, UDA): Hon. Temporary Chairman, you can see the vigour with which Hon. Wamuchomba is supporting this amendment. I honestly feel it is time for all special interest groups to be represented at the decision-making table. It is long overdue. Women are the majority in co-operative societies, just like in the teaching fraternity. Still, they are never included when it comes to elections for positions in the management of the co-operative societies because elections are skewed towards a certain group.

I am also very excited about this amendment. I am happy that the time has come for all special interest groups, including the disabled and women, to be represented at the decision-making table.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Anthony Oluoch, let the excitement continue. Hon. Adagala.

*(Laughter)*

This is a win for women.

**Hon. Adagala Beatrice** (Vihiga County, ANC): Thank you, Hon. Temporary Chairman. I support this amendment, keeping in mind the women who have been neglected but who wake up very early in the morning to milk the cows. They look for napier grass and do all the donkey work, but they have been neglected. The Bill will cure that injustice. I am very happy that it will put money in the pockets of women. They will be loaded and look like dignified Kenyans.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Elachi.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Temporary Chairman. While I support this amendment, when you consider the conditions to be complied with by persons applying to be admitted into a co-operative, you will realise just how co-operatives have “killed” each other. Clause 155(2)(j) states that the regulations may provide for the appointment, suspension and removal of the board of directors. That has been a thorn in the flesh of all co-operatives.

I support the amendment. Women will also be part and parcel of co-operatives, especially on the board of directors, where there is always a challenge.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, I am excited about the excitement. As Hon. Ichung’wah always says, I am a father of girls. When the girls are excited about women being given a seat at the table, I am also very excited. But let me speak for the boys. This provision is progressive not only to the extent that it has gender inclusion, but it also covers youths, persons with disabilities (PWDs) and special interest groups, in line with Articles 27 and 100 of the Constitution and the foundational principles under Article 10.

Now that I am on this provision, allow me to go back to the proposal I made to my Chairman and Vice-Chairman. I can now see that the Cabinet Secretary will make regulations for, among other issues, Clause 154(2)(jj) to provide for the operationalisation and management of the Co-operatives Development Fund. I am satisfied that the regulations will regulate the Fund.

*(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 155 as amended agreed to)*

*(Clauses 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167 and 168 agreed to)*

*New Clause 62A*

Payment of 62—expenses THAT, the Bill be amended by inserting the following new clause after Clause

62A (1) A member of the board of directors shall not receive remuneration in the form of a salary or any fixed or periodic payments for services a director gives to a co-operative.

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(2) A co-operative may pay a director for expenses that a director incurs in the course of executing a duty to the benefit of the society and at such rates as the members shall approve during the general meeting.

(3) This section shall apply to a member of the supervisory board.

*(The new clause was read a First Time)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover, move the Second Reading of the New Clause 62A.

**Hon. Marianne Kitany** (Aldai, UDA): Hon. Temporary Chairman, I beg to move that the new clause be now read a Second Time. The justification for this is to enable for regulations of allowances and other payments to directors to avoid situations where there is conflict of interest.

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): We can allow debate. Hon. Anthony Oluoch.

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Chairman, I support this amendment. We must encourage a situation where directors do not become permanent fixtures at co-operatives. We encourage commissioners in different institutions to find other things to do so that they do not interfere with the day-to-day running of the institutions. Where there are legitimate claims of expenditure, they can be paid a recompense without necessarily being paid a salary. This will also guard against any possible conflict of interest.

I support.

**The Temporary Chairman** (Hon. Omboko Milemba): Finally on this one is Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, good tenets of corporate governance dictate that there must be a clear separation between directors and management. Directors should be allowed to issue policy and superintend or supervise. They are not supposed to undertake day-to-day activities.

It is so unsettling to find a director going to the co-operative offices just to take a cup of tea or read newspapers. We need to make it as un-attractive as possible. Let them come for the Board meetings. They are remunerated by way of sitting and transport allowances using certain rates. That is how things should be done, so that we allow the co-operatives to move on.

Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Contribute in one minute, Hon. Wamuchomba.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Hon. Temporary Chairman, we wanted the Co-operatives Bill so that we can eliminate career board members. They always want to be elected as board members or assert themselves as such, so that they can be there for long and earn salaries like any employed person.

This amendment is handy to make sure that we break the cycle of thefts and domination of career board members in co-operatives. I support the amendment.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*(First, Second and Third Schedules agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, I beg to move that the House do report its consideration of the Co-operatives Bill, (National Assembly Bill No. 7 of 2024), and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

*[The Temporary Speaker (Hon. Farah Maalim) in the Chair]*

## MOTION

### CONSIDERATION OF REPORT ON THE CO-OPERATIVES BILL

**Hon. Temporary Speaker** (Hon. Farah Maalim): The Temporary Chairman.

**Hon. Omboko Milemba** (Emuhaya, ANC): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Co-operatives Bill, (National Assembly Bill No. 7 of 2024), and approved the same with amendments.

**Hon. Temporary Speaker** (Hon. Farah Maalim): Mover of the Bill, Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that this House do agree with the Report of the Committee of the whole House on its considerations of the Co-operatives Bill, (National Assembly Bill No.7 of 2024).

I request Hon. Beatrice Adagala to second.

**Hon. Adagala Beatrice** (Vihiga County, ANC): I second.

*(Question proposed)*

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Members, the Question will be put at an appropriate time in the future.

*(Putting of the Question deferred)*

Next Order.

## BILL

### *Second Reading*

THE CROPS (AMENDMENT) BILL  
(National Assembly Bill No.8 of 2023)

*(Moved by Hon. Kassim Tandaza on 29.11.2024)*

*(Resumption of Debate interrupted on 29.11.2024)*

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Tandaza, this is a resumption of debate. Who was the Member who had a 13 minutes balance? Any Member who would want to contribute on this? Hon. Kibet Komingoi, do you want to contribute on this Bill?

*(Hon. Kibet Komingoi spoke off the record)*

Hon. Beatrice Elachi, do you wish to contribute on this Bill?

*(Hon. Beatrice Elachi spoke off the record)*

Hon. Kimani, do you want to contribute to the Bill?

*(Hon. Kuria Kimani spoke off the record)*

Hon. Members, I now call upon the Mover to reply. Where is Hon. Tandaza? Proceed, and reply. We are on the Crops (Amendment) Bill, (National Assembly Bill No.8 of 2023).

**Hon. Kassim Tandaza** (Matuga, ANC): Thank you, Hon. Temporary Speaker. Let me start by thanking all the Members who contributed last week in support of this Bill.

As I had initially indicated, this is a cash crop that is currently grown in the coastal region that has all the potential of uplifting the economic standards of the coastal farmers. Its scheduling will bring a lot of benefits. We all agree that being a cash crop mainly for export, it has the potential of filling the foreign exchange deficit that this country badly needs.

Hon. Temporary Speaker, I beg to reply. Thank you for giving me the opportunity, and to Members.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Members, I direct that the Question on the Crops (Amendment) Bill, (National Assembly Bill No.8 of 2023), will be put at an appropriate time in future. I direct it be put on the Order Paper at an appropriate time in future.

*(Putting of the Question deferred)*

## PAPERS

**The Temporary Speaker** (Hon. Farah Maalim): I call upon Hon. Kimani Kuria, Chairman of the Departmental Committee on Finance and National Planning to table some documents.



**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Speaker, I beg to lay the following Papers on the Table:

Reports of the Departmental Committee on Finance and National Planning on the consideration of the following—

1. The Tax Procedures (Amendment) Bill, (National Assembly Bill No.46 of 2024); and,
2. Business Laws (Amendment) Bill, (National Assembly Bill No.49 of 2024).

I, thank you, Hon. Temporary Speaker. I beg to lay.

**The Temporary Speaker** (Hon. Farah Maalim): Fair enough. The next Order is the Equalisation Fund (Administration) Bill, (Senate Bill No.14 of 2023). I think the Chairman of the Departmental Committee on Finance and National Planning is going to start the Second Reading of this. You will move this.

## BILLS

### *Second Readings*

#### THE EQUALISATION FUND (ADMINISTRATION) BILL (Senate Bill No.14 of 2023)

**The Temporary Speaker** (Hon. Farah Maalim): The Chair of the Departmental Committee on Finance and National Planning. Hon. Kimani Kuria, Member of Parliament for Molo, proceed.

**Hon. Kuria Kimani** (Molo, UDA): I thank you, Hon. Temporary Speaker. Considering how important this Bill is, especially to Members that are affected by the Equalisation Fund, I indulge you to defer this business to a later date.

**The Temporary Speaker** (Hon. Farah Maalim): Fair enough. It is understandable. I can hardly see any Member from the constituencies that are affected by the Equalisation Fund in the House. I direct that this matter be put on the Order Paper at an appropriate date in the future. I defer the Second Reading of this Bill.

*(Bill deferred)*

**The Temporary Speaker** (Hon. Farah Maalim): Next Order.

#### THE PERSONS WITH DISABILITIES BILL (Senate Bill No.7 of 2023)

**The Temporary Speaker** (Hon. Farah Maalim): The Leader of the Majority Party. He is not here to move the Bill. Under the circumstances, I direct that this Bill be also deferred to another date.

*(Bill deferred)*

**The Temporary Speaker** (Hon. Farah Maalim): Next Order.

#### THE POLITICAL PARTIES (AMENDMENT) BILL (National Assembly Bill No.35 of 2022)

**The Temporary Speaker** (Hon. Farah Maalim): Is the Vice-Chairperson, Procedure and House Rules Committee here to move the Bill? Fair enough, I do not see him. Anybody from the Procedure and House Rules Committee?

I direct that this matter be also deferred to another date in the future.

*(Bill deferred)*

**The Temporary Speaker** (Hon. Farah Maalim): Next Order.

### MOTIONS

#### ADOPTION OF REPORT ON FINANCIAL STATEMENTS OF STATE CORPORATIONS (NYANZA REGION) FOR FINANCIAL YEARS 2018/2019, 2019/2020 AND 2020/2021

**The Temporary Speaker** (Hon. Farah Maalim): Is this also the second reading? It is a Motion. Is the Chairperson of the Public Investments Committee on Governance and Education here to move the Motion?

I direct that this matter be deferred to another appropriate date in the future.

*(Motion deferred)*

**The Temporary Speaker** (Hon. Farah Maalim): Next Order.

#### ADOPTION OF REPORT ON INQUIRY INTO ALLEGED UNFAIR TRADE PRACTICES BY FOREIGN INVESTORS IN KENYA

**The Temporary Speaker** (Hon. Farah Maalim): Is the Chairperson, Departmental Committee on Trade, Industry and Co-operatives in to move the Motion?

**Hon. James Gakuya** (Embakasi North, UDA): I am in, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Proceed and move the Motion.

**Hon. James Gakuya** (Embakasi North, UDA): Hon. Temporary Speaker. I am moving the Departmental Committee on Trade and Co-operatives Report on...

**The Temporary Speaker** (Hon. Farah Maalim): Order, Hon. Member. What you do is that you say: "I move that this House adopts the Report of the Departmental Committee..." That is how you do it. Read it verbatim as it is on the Order Paper.

**Hon. James Gakuya** (Embakasi North, UDA): Hon. Temporary Speaker, I beg to move the following Motion.

THAT, this House adopts the Report of the Departmental Committee on Trade, Industry and Co-operatives on alleged unfair trade practises involving investors in the country, specifically focussing on China Square.

**The Temporary Speaker** (Hon. Farah Maalim): Order! Read it verbatim like this: "I beg to move that this House adopts the report of the Departmental Committee on Trade, Industry and Co-operatives on the enquiry into alleged unfair practises by foreign investors in Kenya, laid on the table of the House..." Read that up to the end of it. "Until Thursday, 7<sup>th</sup> of March, 2024." That is how you should move the Motion.

Move the Motion.

**Hon. James Gakuya** (Embakasi North, UDA): Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): I can see you do not have your glasses. Are you sure you can see very well?

**Hon. James Gakuya** (Embakasi North, UDA): I can see.

**The Temporary Speaker** (Hon. Farah Maalim): Okay, proceed.

**Hon. James Gakuya** (Embakasi North, UDA): Hon. Temporary Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Trade, Industry and Co-operatives on the Inquiry into Alleged Unfair Trade Practices by Foreign Investors in Kenya, laid on the Table of the House today, 2<sup>nd</sup> December, 2024.

**The Temporary Speaker** (Hon. Farah Maalim): Proceed to give your contribution now.

**Hon. James Gakuya** (Embakasi North, UDA): Hon. Temporary Speaker, the Committee held meetings with various institutions and Government departments including the Ministry of Investment, Trade and Industry, the State Department for Investment Promotion, China Square Retail Company, Anti-Counterfeit Authority and local traders.

China Square is a retail company which commenced operations in Kenya on 29<sup>th</sup> January 2023. The company deals in basic consumer goods, household items and hardware, furniture *et cetera* (etc), which are imported from China, Turkey and other parts of the world, as well as sale of locally manufactured brands.

The genesis of this inquiry is from complaints by local traders, who felt that China Square was engaged in under-cutting trading and, as such, creating unfair competition in the Kenyan market. This posed a risk for foreign investments threatening local traders to close shop as a result of unfair trade practices.

The Report is structured as follows, for the benefit of Members who are perusing through.

1. Terms of Reference.
2. Submission from witnesses.
3. Issues for determination.
4. Committee observations and recommendations.

The Committee made the following key findings and observations. There was no evidence submitted by the Ministry of Investment, Trade and Industry that showed the engagement with both local traders and representatives of the Chinese Business Community as well as the Chinese Embassy to discuss and agree on modalities to ensure that the interests of both local and foreign investors are protected to balance both domestic and foreign direct investment.

Although the Kenya Investment Policy 2019 provides the framework for promotion, facilitation and protection of both domestic and foreign investment in Kenya, the existence of the Counter Investment Policy 2018, in addition to the Kenya Investment Policy 2019, may confuse investors if there is no coordination framework for development and implementation of the policies.

There is need for Kenya to develop and adopt a coordination framework for development and implementation of policies and litigation that promotes, facilitates and/or regulates investment at both national and county levels. The gap in law is that the registration of foreign investors under the Investment Promotion Act is not mandatory. Section 3(1) provides that a foreign investor who intends to invest in Kenya may apply to the authority for the investment certificate. The Committee made the following key recommendations.

The Cabinet Secretary in charge of the Ministry of Investment, Trade and Industry in coordination with the Council of Governors, within 60 days of the adoption of the Report, is to develop and adopt a coordination framework for development and implementation of investment policies that mirror the two levels of government. Parliament, in exercising its legislative authority, to review the provisions of Section 3 (1) of the Investment Promotion Act that provides for mandatory requirements for a foreign investor to apply an investment

certificate to ensure compliance with the requirements as set out under Section 4 (2) of the aforesaid Act. The National Investments Council is to prepare an annual report on investment proposals filed by foreign investors and submit it to the Cabinet Secretary in charge of Investment, Trade and Industry.

The Cabinet Secretary for Investment, Trade and Industry, in consultation with the relevant investment stakeholders, to review various investment policy frameworks and regulations with the aim of coming up with an amicable regulatory and policy framework that is friendly to both foreign and local traders. This observation and recommendation, if considered and implemented, will ensure that both our local and foreign investors are well protected and coexist peacefully, hence attracting investment in our Republic.

Having noted the proceedings of the Department Committee on Trade, Industry and Co-operatives on alleged unfair practices by foreign investors in the country, specifically focusing on China Square, which is a retail company, I beg to move and urge the House to adopt this report.

**The Temporary Speaker** (Hon. Farah Maalim): Who will second you?

**Hon. James Gakuya** (Embakasi North, UDA): My Vice-Chairlady will second.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Marianne, proceed.

**Hon. Marianne Kitany** (Aldai, UDA): Thank you, Hon. Temporary Speaker. I stand to second the report on Unfair Trade Practices that was tabled today. This Report is as a result of a complaint that came from the local traders, mainly from Gikomba, who felt that the investors who have come into the country, specifically China Square, have taken over their businesses. The businesses they were talking about were the small trade businesses. They felt that the country or our policies and regulations should guard and protect them from such investments.

We looked at the Report, we talked to all the industry players, including the Ministry, and we realised that most of the laws and legislation that exist today do not bar foreign investors or foreign traders from trading in any commodity or any service within the country. Therefore, that could form a potential risk and loss of business to our local investors. As much as the country may want to have foreign investors, just like many other countries have done, foreign investment could be limited. That is in value of monies that they come with or investments to products or services that are unique. This is so that the local investors and the local businessmen are then given the free hand and the free will to do the local businesses so that the foreign investors do not come in.

One of the legal areas that need to be looked into is the Kenya Investment Policy, 2019, because it does not demand that foreign investors coming into the country to register the products or services that they are coming to sell in the country. The law states that they 'may register'. The word 'may' means that when those foreign investors come into the country, there is no requirement for them to go to the Kenya Investment Authority (KenInvest) to register. Therefore, they are not monitored in that respect. That gap in law on non-registration of foreign investors under KenInvest gives our local investors a reason to cry or get worried about competition with foreign investors. This is because many of those foreign investors come with huge investments; thus, displacing the local investors from the market. As a result, that leads to job losses which is not the intention of the Government.

The other issue is that the National Investment Council (NIC), which sits at the presidency, needs to prepare annual reports to show where the country is in terms of investments and investment promotions. As a country, we are aware that we are trying to promote investments into this country, especially through our Special Economic Zones (SEZs) and Export Processing Zones (EPZs). If we encourage investments through SEZs and EPZs, we will leave the local market for the local investors. Additionally, if we give incentives to local investors, we will see growth in the local investments.

I am also happy that we are now looking at the Start-Up Bill. This will help many of those young investors, who may find a threat from the foreign investors, to get an opportunity where they can get incentives like tax rebates. That will help our local investments to grow and our young people to invest in this country.

So, the Report that we have done as a Committee looks at those unfair trade practices that have been occasioned by various legislations in this country. The business laws, for example, the Companies Act, 2015, do not restrict the businesses that come in or register in this country in terms of the kind of businesses that they are supposed to operate. Therefore, some of the amendments and recommendations that the Committee was looking at is that, as KenInvest looks at amending their law, we could also look at further amending the Companies Act, 2015 to protect our local investors.

So, this Report has come in handy, and it could not have come at a better time than now, when many of our investors are crying and many businesses in this country have closed down because of unfair competition from the multi-nationals in the country. A good example of those unfair trade practises that have come in include, the China Square and Starlink. Safaricom complained that, that investor has come with a huge muscle, and he will compete unfairly with the local businesses that have already entrenched themselves. Safaricom employs very many people. If such companies are not checked, as a country, we may end up having jobs losses, loss of business opportunities and loss of revenue. That is because many of those investors repatriate their profits back to their country.

As a Committee, we support this Report. We ask that the laws that need to be amended to protect young businesses and the local traders in this country be fast-tracked. This will ensure that the local investors in the country can freely run their businesses without any issues of unfair practises.

Hon. Temporary Speaker, during our investigations, there were issues to do with counterfeiting and anti-counterfeiting, and we found out that many foreign investors bring in products that, perhaps, could be counterfeited. The products do not become competitive in our market because we are killing industries even in the countries where those products come from. Kenya, therefore, ends up being a dumping site. That is what we need to protect so that, as a country, we do not become a dumping site and end up breaking the international laws that we have ratified in terms of dumping and counterfeiting of products. That is another area that came up and we felt that the legislation, specifically under the Standards Act, needs to be further enhanced. This would ensure that all products that come in, fit into requirements under the international standards, thereby ensuring that the products are not counterfeited.

I support and beg to second this Motion. Thank you.

*(Question proposed)*

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Tandaza, followed by Hon. Mwalyo, if time permits.

**Hon. Kassim Tandaza** (Matuga, ANC): Ahsante Mhe. Spika wa Muda kwa kunipatia fursa hii ya kuchangia Hoja hii muhimu sana, ambayo inaangalia biashara za kudhuru nchi nzima kiuchumi na pia vijana wetu.

Ni lengo la Serikali ya Kenya Kwanza kupata wawekezaji haswa kwa upande wa uzalishaji, ili vijana wetu wapate kazi. Ni jambo la kuhuzunisha wakati tunazungumzia wawekezaji ambao hawaji hapa Kenya kuweka viwanda ili vijana waajiriwe, lakini wanakuja kufanya biashara kwa manufaa ya kutengeneza faida na kurejesha pesa kwao.

Hoja hii ni muhimu na imekuja wakati unaofaa. Nchi inahitaji wawekezaji, lakini wawe ni wale ambao wanakuja kuwekeza kwa manufaa ya nchi na si kwa sababu ya biashara ya mtu binafsi ama ya shirika fulani la nchi za kigeni.

Aliyetanguliza amezungumzia vizuri kuhusu Ripoti ya kamati ambapo waligundua kwamba hao wanafanya tu biashara na hela zote wanarejesha kwao. Hii ina maana kwamba, sisi hatupati faida yoyote ya maana. Ikizidi, wanarejesha kwao pesa za kigeni. Kwa hivyo, inazidi kupunguza ule mfuko wetu wa pesa za kigeni ilhali hatuna faida yoyote ya maana. Kama ilivyotangulizwa, katika uchunguzi wa wanabiashara wa China Square, hatuna matatizo katika ngazi za nchi kuhusu maelewano kati ya nchi za kigeni kama China. Hata hivyo, tufahamu kwamba hiyo ni nchi kubwa yenye rasilimali nyingi. Kwa hali yoyote, viwanda vyao vimeendelea sana kwa sababu ya wingi wa watu.

Kwa wale ambao tumebahatika kuenda kule Uchina, utakuta kwamba kwa sababu hao tayari ni wengi, wana soko la kutosha na hatuwezi kamwe kushindana nao katika uzalishaji mali wakati soko letu ni ndogo.

Pili, kwa sababu ya kuwa wao wameendelea pia kiteknolojia, wana mbinu mpya ya kuzalisha hizo bidhaa. Inamaanisha kwamba, endapo wewe utataka kuzalisha bidhaa ambazo zinafanana na mbao, kwa mfano, gharama yako ya kuzalisha moja kwa moja inatakuwa nyingi, bali kwao inakuwa ndogo, maana hao wana uwezo wa kutuletea kitu ambacho kinafanana na mbao. Kwa hivyo, wanakuwa na ile nafuu ya kutuuzia sisi ilhali sisi bidhaa yetu itakuwa ghali.

Nasimama kuunga mkono Hoja hii na taratibu zilozungumziwa ili tuweze kulinda rasilimali zetu na kupata wawekezaji watakaokuja kwa lengo la kutuletea faida na kutoa fursa za ajira kwa vijana.

Ahsante kwa kunipatia fursa hii.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Mwalyo, Member for Masinga. Give him the microphone.

*(Loud consultations)*

**Hon. Joshua Mwalyo** (Masinga, Independent): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute. I thank our Committee for bringing this Motion. I am a member of the Departmental Committee on Trade, Industry and Co-operatives. This Motion has been before us for some time. We were able to discuss it with the multi-nationals and the locals. We found out that new investors who come to this country are favoured because they are given tax holidays, while our local investors are not. There should be fair play in all sectors so that investors who want to make a profit are not disadvantaged by those who are given tax holidays.

Some people come to retail the products that our importers are importing. They buy the same products from the same manufacturers in their countries. They then come here and start retailing those products at a lower price than those who imported the same products and were charged duty while they were given a tax holiday for about a year or so. There should be fairness so that local manufacturers and traders can feel that they belong to this country, and that they can grow their companies to middle-class companies that will one day become the blue-chip companies. Multi-nationals once started small. There should be a level playing field.

The “big boys” who have been around for some time, have been manufacturing for many years. They have grown our economy. They knew this country from when it was nothing to when it became something. A big multi-national then enters the market and is given a tax rebate. Those who have been manufacturing similar products end up being disadvantaged and feeling unwanted. That is why you see them saying that they are opening branches in Uganda, Rwanda or Tanzania, and leaving our country. They have developed our country in terms of employment and paying high taxes. There should be a level playing field. That is what the Committee is urging our country to do, so that we can benefit everyone, from the smallest to the biggest companies, the start-ups to the multinationals, and the importers to the exporters. There should be a level playing field so that Kenyans can feel that they belong to this country.

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Kenyans will also be happy to be given a tax rebate. If I am competing with you and you are given a tax rebate while I am not, I will feel that I am not loved. I can go to another country to start my small company and get some incentives.

I will conclude my remarks there.

### ADJOURNMENT

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Tuesday, 3<sup>rd</sup> December 2024, at 9.30 a.m.

The House rose at 7.00 p.m.

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