



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. II NO. 121**

## THE HANSARD

Wednesday, 6<sup>th</sup> December 2023

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** Serjeant-at-Arms, ring the Quorum Bell.

*(The Quorum Bell was rung)*

Hon. Members, we now have quorum. Clerk.

### COMMUNICATION FROM THE CHAIR

#### WITHDRAWAL OF CERTAIN CLAUSES OF THE GAMBLING CONTROL BILL (NATIONAL ASSEMBLY BILL NO.70 OF 2023)

**Hon. Speaker:** Hon. Members, I have a short Communication on the withdrawal of certain clauses of the Gambling Control Bill (National Assembly Bill No.70 of 2023).

Hon. Members, as you may be aware, the Gambling Control Bill (National Assembly Bill No.70 of 2023) was published vide Kenya Gazette Supplement No.212 of 31<sup>st</sup> October 2023 to, *inter alia*, provide for the regulation of betting, casinos and other forms of gambling; the authorisation of prize competition and public lotteries; and the imposition of tax on betting and other forms of gambling.

The Bill, which is sponsored by the Leader of the Majority Party, was read a First Time on Wednesday, 8<sup>th</sup> November 2023 and was thereupon referred to the Departmental Committee on Sports and Culture for consideration in accordance with Article 118 of the Constitution and Standing Order 127 of the National Assembly Standing Orders.

Further, I referred the clauses in the Bill relating to taxation which included Clauses 45 and 46 to the Departmental Committee on Finance and National Planning for consideration.

The Bill was subsequently considered by the House and passed at Second Reading on Wednesday, 29<sup>th</sup> November 2023, thereby committing it to a Committee of the whole House. Indeed, the Bill is scheduled for consideration in Committee today under Order No.17.

Before proceeding for consideration of the Bill in Committee of the whole, I wish to inform the House that I have since received a letter from the Leader of the Majority Party, dated 5<sup>th</sup> December 2023, requesting my consent for withdrawal of Clauses 45 and 46 of the Gambling Control Bill, 2023. In his request, the Leader of the Majority Party indicates that the Gambling Control Bill, 2023 is a Bill concerning county governments in the terms of Article 110 of the Constitution. In this regard, the Bill is to be processed by both Houses in accordance with Article 109(4) of the Constitution. The request, therefore, notes that the two clauses ought not be considered in a bicameral manner as they provide for matters not contemplated under Article 110(3) of the Constitution.

Hon. Members, the Leader of the Majority Party further avers that Clauses 45 and 46 of the Bill specifically relate to taxation. Noting the provisions of Article 114 of the Constitution which restricts the consideration of money Bills only in the National Assembly, the Leader of the Majority Party is of the view that bicameral consideration of the Bill may not be tenable. Therefore, the taxation measures contained in the two clauses ought to be considered in a taxation law as per practice. Additionally, the request notes that the House recently resolved on various taxation measures through the Finance Bill, 2023.

In this regard and in keeping with the provisions of Standing Order 49, the consideration of further taxation measures is limited at the moment. The Departmental Committee on Finance and National Planning is currently undertaking comprehensive stakeholder engagements with a view to proposing taxation measures for consideration by the House.

Having considered the request, I have acceded to the request by the Leader of the Majority Party to withdraw Clauses 45 and 46 of the Gambling Control Bill, 2023. This is premised on the understanding that appropriate transitional clauses will be included to allow for the current taxation regime in the gambling sector to continue in the interim until another law is introduced. Indeed, I wish to draw the attention of Members to today's Order Paper which contains amendments of the Departmental Committee on Finance and National Planning relating to transition matters on taxation in gambling.

With this withdrawal, Hon. Members, the Bill will be considered in the Committee of the whole House without referring to the withdrawn clauses and will proceed as though the withdrawn clauses were not part of the Bill as published.

The House is accordingly guided.

Next Order.

*(Several Members stood at the Bar)*

**Hon. Speaker:** Honorable Members, take your seats. Take the nearest seat, I have a Petition to present. The nearest seat, Commissioner Faith. Members at the bar take your seats if you have intentions of participating in the proceedings.

## PETITION

### THE NHIF IBNRC CLAIMS CAPTURED IN THE FINANCIAL YEAR ENDING 30<sup>TH</sup> JUNE 2022

Hon. Members I have a Petition regarding the National Health Insurance Fund ineligible Incurred but not Reported Claims (NHIF IbnRC) of over Ksh21 billion captured in the Financial Year ending 30<sup>th</sup> June 2022.

Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than those presented by a Member.

In this regard, I wish to report to the House that my Office has received a Petition from one, Bernard Muchere, CFE, ID. No.0810570, being a citizen of the Republic of Kenya and a Fraud Risk Management Consultant.

The Petitioner states that Incurred but not Reported Claims is a type of reserve account used in the insurance industry as a provision for claims and or events that have transpired but have not yet been reported to an insurance company.

The Petitioner avers that upon undertaking a fraud examination on financial statements in respect of the NHIF for the year ending 30<sup>th</sup> June 2022, with reference to previous financial years, he established that during the preparation of the financial statements for the Financial

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Year ending 30<sup>th</sup> June 2022, the NHIF management created Incurred but not Reported Claims aggregating to over Ksh21 billion backdated to the 2019/2020 Financial Year inclusive of cumulative Incurred, but not Reported Claims for the previous financial year. The unbudgeted claims were charged to the NHIF members' contributory schemes causing a huge financial crisis that made NHIF unable to pay hospital bills for genuine contributors.

Hon. Members, the Petitioner further avers that upon analysis of the annual reports and financial statements, there was a lack of evidence supporting the Incurred but not Reported Claims and that the Incurred but not Reported Claims reserves were fraudulently created to enable the siphoning out of NHIF funds. This has caused a major crisis in the contributors' medical coverage resulting in most patients being denied treatment.

The Petitioner, therefore, prays that the National Assembly compels the Board of Management and the Executive Officer to prepare financial statements that give a true and fair view of the state of affairs and consequently identify which healthcare providers benefited from Incurred but not Reported and whether the Incurred but not Reported Claims were authentic. In the event the Incurred and not Reported Claims are found to be inauthentic, the total amount paid should be recovered from the beneficiaries.

Hon. Members, having established that the matter raised in the Petition is well within the authority of this House and further, that the matters raised in this Petition are not pending before any court of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A.

The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2). Thank you.

Leader of Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Let me first thank *Bwana* Muchere whom I know well. He has been an internal auditor at the National Treasury. He has been a very spirited public advocate for good governance and the fight against graft in this country.

Hon. Speaker, you have already committed that Petition to the Committee on Public Petitions, but I would really implore the Committee to consider involving the Office of the Auditor-General because that is a matter that will need, at least, some sort of forensic audit and not just to rely on what *Bwana* Muchere has done. The Committee should occasion a forensic audit on to the activities of management of the NHIF. Hon. Members may recall that about a few months ago, the Cabinet Secretary for Health effected some changes at the NHIF including suspension of some healthcare providers. Some of these healthcare providers were involved in a scheme that was exposed by the Nation Media Group (NMG) through their NTV station. That points to the rot that has been within NHIF. It is, indeed, true and I would want to concur with auditor Muchere, that there are numerous incurred but not reported claims. This is just one of the schemes used by fraudsters, more so those within the health sector, to defraud contributors of the NHIF by defrauding the Fund.

Now that we are at the verge of having a new Fund under the Social Health Insurance Fund (SHIF), it is imperative that we create confidence in Kenyans that whatever amount of money they contribute into the new health scheme, it will not be subjected to the same fate that previous NHIF funds have been subjected to, through fraudsters and healthcare providers who masquerade as healthcare providers providing services for claims that are really not claims.

The exposé by the NMG laid bare the level of fraud that is involved in the NHIF medical claims. I, therefore, want to support that Petition and request the Chairman of the Public Petitions Committee to consider seriously getting a forensic audit conducted first by the Office of the Auditor-General so that they can base whatever decision they will base on, on an actual audit done. That way, we will get our Public Investments and Public Accounts Committees involved.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Gitonga Murugara. Are you queuing for this?

*(Hon. George Murugara spoke off the record)*

Then what are you queuing for? You are on the request list. I directed, and I want to repeat, that you only key in and get on the screen when an order is called. But I have Members here like Hon. Dekow, Hon. Gitonga Murugara, Hon. (Dr) Makali Mulu, Hon. Adan Haji, Hon. Beatrice Elachi and Hon. Owen Baya queuing on this matter.

If you are not queuing to comment on this Petition, log out. Yes, Hon. Beatrice Elachi.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Speaker. I also want to support the Petition. It is very unfortunate. It seems like in our country, people contribute money, we move on as a leadership and then start another thing without even giving an account to our people who have paid NHIF contributions. Some of these people have never received treatment or known what has happened and are now in a new dispensation and about to start contributing.

All Members here contribute Ksh2,000 each, but when they go for treatment, and their package is like for civil servants, they are unable to be given the same treatment civil servants are given, yet they are being deducted Ksh2,000 a month for that same NHIF. It is, therefore, important that even as we look at all these matters, we relook at the packages Members are paying and assist them so that they can get a better cover like any other person.

Again, as we look at the finances and beneficiaries, it is important for us to be told as a country how much Kenyans contributed towards the NHIF before we go to the new one so that we are able to appreciate that this thing can assist us in our health matters.

**Hon. Speaker:** Hon. James Wandayi Opiyo.

*(Hon. Opiyo Wandayi spoke off the record)*

Not on this one. Hon. Wangwe Emmanuel.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Speaker. I want to support the Petition by Mr Muchere on the revelations of what is happening at the NHIF. The NHIF is one of the agencies I am overseeing as the Chairman of the Public Investments Committee on Social Services Administration and Agriculture.

I want to call upon the Chairman of Public Petitions Committee to walk the journey the Leader of the Majority Party has said, and invite the Office of the Auditor-General because when you look at what is happening at the NHIF, they have had to use acting CEOs.

On one of the occasions when they appeared before my Committee, they were totally unable to explain what they are doing in the organisation. It will be very important that we get to the bottom of the whole saga, because what is pending at the NHIF, even without anticipating debate on the report, I shall be tabling about the health sector, is not proper. Therefore, it is important that we get the forensic part of it in detail from the Public Petitions Committee and once we are seized of the report, we will again analyse it further.

This is a good Petition, especially coming at a time when there is a transition from the NHIF to SHIF. We support the Petition and look forward to receiving it.

**Hon. Speaker:** Hon. Sunkuli Julius.

**Hon. Julius Sunkuli** (Kilgoris, JP): Thank you, Hon. Speaker. I rise to bring to the attention of the House that I had already allowed the Departmental Committee on Health in which I sit, to conduct an inquiry into the activities of the NHIF, and the inquiry is going on as we sit.

Looking at it now, these things seem to be deep, and as you commit this to the Public Petitions Committee, it would be good that we develop a way in which the Departmental Committee on Health can work together with the Public Petitions Committee and the Office of the Auditor-General in carrying out investigations so that we can get to the bottom of this. The NHIF is an organisation that requires to be investigated since people are not getting value for money. Some of the indigents are going to hospital, and their cards are not being acknowledged because the Government has not remitted money to the NHIF and so on and so forth.

I ask for your guidance on that one since I sit in the Departmental Committee on Health, whether that inquiry needs to be dovetailed into the new directive that you have given to the Public Petitions Committee.

**Hon. Speaker:** Thank you, Hon. Julius. Hon. (Dr) Makali Mulu

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Speaker. I also support the Petition and thank the Petitioner for bringing out this issue. What the Petitioner is demanding from the NHIF is accountability. Now that we are shifting to a new Fund in one year, it is important that this matter is sorted early enough so that those who are responsible can be the first case to leave the institution and get new people who can serve Kenyans effectively and efficiently without any problems.

However, this matter of corruption cuts across many institutions, mostly our parastatals. It is important that even as we look at this specific one, the Office of the Auditor-General conducts a special audit on most of these institutions to make sure that the funds which Kenyans are contributing are being used in the most effective manner.

With those remarks, I support and thank the Petitioner for this Petition.

**Hon. Speaker:** Hon. (Dr) Lilian Gogo.

**Hon. (Dr) Lilian Gogo** (Rangwe, ODM): Thank you very much, Hon. Speaker. Allow me to add my voice to this Petition by one Mr Muchere. Matters NHIF have become a problem for the longest time, and it is important that it is followed up by this House.

It is equally important to people who contribute to this particular Fund that in moving forward, it is going to be transformed into another Fund. I hope the NHIF transformation will not just be by name, but it will be a Fund that will help the great people of Kenya. The NHIF has had serious issues. I have always wondered why when hospitals are excluded from receiving NHIF capitation, they collapse immediately. It means it is a cash cow for people who run hospitals. So, it is important that as we speak for the people we represent in this House, we look at matters that affect the Kenyan population. We should safeguard the interests of Kenyans, more so when it comes to matters health. People should get value for money.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Lelmengit.

*(Hon. Josses Lelmengit spoke off the record)*

If you do not want to contribute to this Petition, get off the screen. Hon. Yusuf Hassan.

**Hon. Yusuf Hassan** (Kamukunji, JP): Thank you, Hon. Speaker. I also want to comment on the Petition. There are many problems at the grassroots level with regard to health. It is difficult for Kenyans to access health services when they fall sick and go to hospitals. In general, there are several glitches with the NHIF system. Patients are turned away and do not get service even when they are fully contributing to the NHIF. There is need to shake up the NHIF so that it can serve Kenyans better, particularly those who cannot afford high hospital charges as we do.

As a victim, I have been in and out of hospital because of the injuries I sustained in a bomb explosion a few years ago and I discovered that even for someone of my status, it is difficult to get access to some services because of the bureaucracy at the NHIF. There is an

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urgent need to change, reform and improve the services so that we can all benefit. This will ensure that even the marginalised communities who are at the bottom level get access to health services. Additionally, those who have registered for NHIF will get better services from the institution.

**Hon. Speaker:** Hon. Dekow Barrow, Member for Garissa Township.

**Hon. Dekow Mohamed** (Garissa Township, UDA): Thank you, Hon. Speaker, for allowing me to voice my support to the Petitioner for bringing up this important issue. As we transition to a new Fund, there is need to carry out certain audits, like the one brought up by the petitioner. It is unfortunate that the main purpose of NHIF, which is to take care of the vulnerable so that they can access health services, is now being collapsed by greedy individuals. The revelations by the Petitioner of fraud in NHIF amounting to Ksh21 billion is shocking. There is need for us, as a country, to relook at this issue. Our public health centres and hospitals are collapsing as result of mushrooming private hospitals. The intention and target is to syphon public money from the NHIF. I support the Petitioner and hope that the issue is taken seriously. We should ensure that the new entity, the Social Health Insurance Fund, is not collapsed by private hospitals whose intention is to steal from the public.

With those few remarks, I support the Petition.

**Hon. Speaker:** Hon. Members, we will end the debate on the Petition now. That Petition and the contributions you have made raise several issues that are crosscutting. The Chairman of the Public Investments Committee on Social Services, Administration and Agriculture has said that his Committee is seized of the matter.

Hon. Wangwe, I hope you are listening. Hon. Sunkuli also said that the Departmental Committee on Health is looking at the matter. However, the Petition ought to be committed. Therefore, I commit it to the Public Petitions Committee, but I direct, as the Leader of the Majority Party had commented, that a forensic audit be carried out in pursuance of this Petition. The Office of the Clerk will assist on how the committee can interrelate in dealing with the matter. The Departmental Committee on Health has an unlimited opportunity and jurisdiction over matters dealing with health. Equally, the Public Investments Committee on Social Services, Administration and Agriculture has an unlimited jurisdiction on matters within their purview in public investments. The committees should find a way, through the Office of the Clerk, on how they can collaborate. I suggest that the committees second one or two Members to the Public Petitions Committee when it sits on this Petition, so that there is nexus between what the two committees are investigating and what the Public Petitions Committee will be dealing with. It is so directed.

## COMMUNICATION FROM THE CHAIR

### UPDATE ON STATUS OF NG-CDF DISBURSEMENT

**Hon. Speaker:** Hon. Members, before the next Order, I have been informed of a little incident that happened yesterday regarding the NG-CDF. This was brought to my attention while I was away on an official visit to Djibouti. I communicated with the National Treasury. They gave me a firm commitment that before 20<sup>th</sup> December, they will disburse not less than Ksh9 billion to the NG-CDF management. The money will be disbursed to your constituencies, if not for nothing else, at least to deal with the sticky issues of bursaries when schools open. Thereafter, more resources will be committed. I am informed that the reason for the delay is the current state of the economy. We are all aware that there is an economic crunch in the country. More importantly, this month the National Treasury is retiring the Eurobond. You are aware that the first charge on our resources must go to debt service.

Last year, when we had a similar incident, the National Treasury, through my intervention and that of the Leader of the Majority Party, committed to pay NG-CDF disbursements in good time. You recall that by the time we closed the year, every single disbursement to the NG-CDF had been done. I believe that we should not leave our womenfolk behind.

I ask the Leader of the Majority Party to also follow up so that as NG-CDF is disbursed, the National Government Affirmative Action Fund (NGAAF) is also catered for. This will ensure that the County Woman Representatives are taken care of as well. I believe this should allay your anxiety. If there is any issue, yours truly is here to take care of your welfare. Being the critical link between this House and the Executive, especially the National Treasury, I must ensure that you are not constrained in serving your constituents and Kenyans at large through the NG-CDF. The Fund does more development projects, sometimes even more visible than what the devolved units are doing.

The Leader of the Minority Party, you sought to raise a point of point order.

### POINT OF ORDER

#### ARREST OF THE CONTROLLER OF BUDGET

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you very much, Hon. Speaker. I had, indeed, sought your indulgence to allow me to raise a pertinent issue that touches on the Constitution and the laws of the land. For starters, it is in the public domain that yesterday the Controller of Budget, Dr Margaret Nyakang'o, was arrested and arraigned in court over some matters which I am not privy to. I am very much alive to the rule of *sub judice* and our Standing Orders. I will not delve into the matters that are before court.

However, let me say this. I think it is the first time since the promulgation of the 2010 Constitution that a holder of an independent office has been charged in the court of law. I may be wrong, but I do not think I am wrong. It is the first time since 2010, and that raises serious issues. At the outset, I want to take you, Hon. Speaker, to the provisions of the Constitution of Article 95 of the Constitution that sets out the functions of this House. *Inter alia* Article 95(2) of the Constitution states:

“...the National Assembly deliberates issues of concern to the people”.

If you go further down, at Article 95(4), “among other things, the National Assembly determines the allocation of national revenue between the two levels of government”. At (b), “the House appropriates funds for expenditure by the national Government and other national States organs”. Above all, at (c), “the House exercises oversight over national revenue and its expenditure”.

I want to draw your attention to the provisions of Article 228 of the Constitution that establishes the office the Controller of Budget. Under Article 228(4) of the Constitution, “the Controller of Budget shall oversee the implementation of the budget of the national and county governments by authorizing withdrawals from public funds under Articles 204, 206, and 207”. In a nutshell, the Controller of Budget is exercising her mandate pursuant to the function of this House of appropriating funds to various agencies and organs of government and authorities.

*(Hon. Junet Mohamed spoke off the record)*

Hon. Junet Mohamed is reminding me. There is a notion which has been created out there since the arraignment of the Controller of Budget yesterday that perhaps the Office of the Controller of Budget is now vacant or somehow the Controller of Budget is now impeded from



performing her functions. Let me go further to draw your attention to the provisions of Article 251 of the Constitution.

Under Article 251(1) of the Constitution: “A member of a commission or the holder of an independent office such as the Controller of Budget may be removed from office only for one serious violation of the Constitution or any other law including contravention of Chapter 6,

(b) gross misconduct, whether in the performance of the member's or the holder's functions or otherwise and

(c) physical or mental incapacity to perform the functions of the office,

(d) incompetence, and

(e) bankruptcy”.

It goes on to set out how such a removal can be initiated and so on.

Finally, I want to draw your attention to the provisions of the Controller of Budget Act, Section 4, which underscores what the Constitution already provides for. Sub-section 1 states thus:

“The office of the Controller of Budget shall become vacant...”

**Hon. Speaker:** Hon. Wandayi, I am still at a loss as to what you want. Are you not whistling in the dark?

**Hon. Opiyo Wandayi** (Ugunja, ODM): No, I am actually laying a foundation for my submission. I will conclude very quickly.

**Hon. Speaker:** You know what whistling in the dark means?

**Hon. Opiyo Wandayi** (Ugunja, ODM): I know.

*(Laughter)*

Hon. Speaker, the Act, the subsidiary legislation that has given effect to the Constitution provision that creates this Office, at Section 4(1), provides how the Controller of Budget can leave office - ‘by resigning in writing to the President, by being removed in the manner provided for under Article 251 and (c), upon death.

Hon. Speaker, I plead with you, because it is only this House that can calm the nation. As I have already said, the functions of the Controller of Budget are very serious and integral to the performance of the budget itself, but more importantly to the performance of the economy. Therefore, any insinuation that the office holder is either incapacitated or barred from performing her functions can create unnecessary anxiety and distress in the economy generally.

More importantly, her functions are intertwined with the functions of this House. Therefore, it is the duty of this House to set the record straight. If there is such kind of misconception out there. We do not want to go into the reasons why the Controller Budget was arrested. Some of us hold a strong view that she was being hounded out of office. She was being pursued for her strong stance against misuse of public funds.

I will recall...

**Hon. Speaker:** Order, Hon. Wandayi. That is speculative.

**Hon. Opiyo Wandayi** (Ugunja, ODM): I want to bring your attention to the fact that I happen to have sat in the National Dialogue Committee, which was co-chaired by none other than the Leader of the Majority Party. Madam Margaret Nyakang'o appeared before us and made very serious allegations on how public funds are being misappropriated by people who are charged with the responsibility of managing the funds. We followed up that issue with the relevant officers, including the Cabinet Secretary for the National Treasury and Economic Planning. The only answer we got was that the matter has been referred to the Auditor-General.

Therefore, the public has a reason to believe that perhaps the reason she is being pursued or being hounded out of office is because of her strong stance against misuse of public funds.

In any event...

**Hon. Speaker:** Wind up. Be cautious of the fact that this is a matter before court. What you are saying now is likely to undermine the integrity of the case, including the defence of the person you are defending.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Okay. I am well guided. Let me conclude as I seek that you make a determination and issue a communication from your Chair allaying these fears that are out there; that that Office has somehow been incapacitated following the arrest and arraignment of the office holder yesterday.

Under Article 157 of the Constitution, which creates the Office of the Director of Public Prosecutions (DPP) and indeed generally under common law, a prosecution is undertaken after exercising certain discretion.

**Hon. Speaker:** You are being tautologous, Hon. Leader of the Minority Party.

**Hon. Opiyo Wandayi** (Ugunja, ODM): This is very important. Before somebody is charged in court with a criminal offence, it is the duty of the DPP to ensure that the charges pass the evidential test. I am sure you know that. ...and are also in public interest.

**Hon. Speaker:** Hon. Wandayi, you have crossed the line.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Okay. I will again retreat. I plead with you that the public out there is utterly anxious...

**Hon. Speaker:** You have only said two things: That the Control of Budget has been charged and the second one is whether she continue working as the Control of Budget. That is all you have said in too many words.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Let me summarise. My submission is that regardless of the actions that were taken yesterday by way of charging the Controller of Budget, Margaret Nyakang'o, under the law and under the Constitution, she continues to hold office as the Controller of Budget and continues to discharge her mandate and, therefore, any other insinuation should be discarded.

Thank you, Hon. Speaker. I submit.

*(Hon. Members raised their hands)*

**Hon. Speaker:** Hon. Members, I can see three senior lawyers raising their hands. This matter is before a court of law. From what I have seen in the media, I take judicial notice.

*(Hon. Samwel Chepkonga spoke off the record)*

Okay. I will give you two minutes. Avoid going to the direction of the Leader of the Minority Party.

*(Laughter)*

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Speaker. I rise with a lot of sympathy to my very good friend. He has redacted certain parts of the law. If he had read everything... I wish he had referred to the Leadership and Integrity Act.

Secondly, in the same Constitution that he referred to, a State officer is defined and it is known who it is. The Controller of Budget is a State officer. He should have also referred to the Anti-Corruption and Economic Crimes Act. When you read the law selectively and then tell us what the total import of it is, you mislead the House and public.

Hon. Speaker, you should not be invited to interpret something that is absolutely clear. It is contained in the books. To the best of my recollection, when I moved the Leadership and Integrity Act, Hon. Wandayi - Leader of the Minority Party - contributed to it. You know what it is. You also know what the Anti-Corruption and Economic Crimes Act says.

You cannot abdicate your responsibility of knowing and then you become a permanent resident in ignorance. That should not be allowed.

I thank you, Hon. Speaker.

*(Laughter)*

**Hon. Opiyo Wandayi** (Ugunja, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Did I hear Hon. Chepkonga refer to me as being ignorant? Can that possibly be true, Hon. Speaker, even if you were to ask such a question? He is out of order.

**Hon. Speaker:** Order. It is an unkind remark to your colleague, Hon. Chepkonga. Withdraw it.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Hon. Speaker, I said he was making an attempt to enter into the permanent residence of ignorance. I have not said he is ignorant.

**Hon. Speaker:** You said he is a permanent resident in ignorance.

*(Laughter)*

Withdraw that remark because it is an unkind.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): I withdraw.

**Hon. Speaker:** Have you withdrawn?

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Yes.

**Hon. Speaker:** Thank you. I do not want to escalate this debate. Those of you who think they are defending Dr Nyakang'o are actually prejudicing her case, we are not privy to its facts. If you are, Hon. Speaker is not.

Yes, Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. Let me first thank Hon. Chepkonga for withdrawing that remark on ignorance. For all I know, the Leader of the Minority Party is not ignorant. He is, indeed, doing very well. He has caught up on what the Leader of the Minority Party should be doing. He is doing his work.

I can see the spirited attempt to defend our good friend, Dr Mary Nyakang'o, the Controller of Budget.

**Hon. Members:** It is Dr Margaret Nyakang'o.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Yes, Dr Margaret. Hon. Speaker, you can hear I am not privy to the name like the Members in the Minority Party. The spirited attempt to defend her by the Leader of the Minority Party is what I saw yesterday in certain political quota. I urge all of us to treat the matter for what it is. I agree with the Leader of the Minority Party that, indeed, she holds an independent office together with the Auditor-General.

What I do not agree with the Leader of the Minority Party is that there is absolutely nothing in the Constitution that says that a holder of an independent office cannot be charged or is above the law. The matters that Dr Margaret Nyakang'o has been charged with in court are out there in the public domain. She is being accused of issues that happened at a time she was not the Controller of Budget, which is way back in 2016 in a financial institution that she managed or ran. Complaints were lodged.

As the Leader of the Majority Party, I hold a constitutional office. If I had certain improprieties at the time I was selling meat as a butcher in Kikuyu and Hon. Junet who used to supply me with cows complains that I did not pay him or I took off with some of his money, I am culpable to be charged. These are matters we should leave for the courts to consider the evidence that will be adduced by the office of the DPP and his witnesses, and the defence Dr Margaret Nyakang'o will mount in court.

I agree with Hon. Chepkonga. It is one thing to read the Constitution and claim independence of the office, excluding us from reading Chapter Six on leadership and integrity. What you are being invited by Leader of the Minority Party to pronounce yourself on is not for you to do it. He is inviting you to a political duel. It is okay for it to be out there in press conferences and other organised media. To attempt to use this chamber to prosecute a matter that is in court, as the Leader of the Minority Party duly noted, will be *sub judice*. I implore on him to heed your advice. Even those who seek to defend Dr Margaret may be prejudicing her case in court.

It is safer to leave that matter to the courts. Let them make a determination based on evidence that will be adduced in court. We do not know the evidence that the office of the DPP has. There is nothing in our Constitution and laws that say either the Auditor-General or holder of an independent office like the Controller of Budget is immune to prosecution. If we say that a holder of a constitutional office like the Leader of the Majority Party, independent or constitutional commission office is immune to prosecution, that will be the height of impunity. When we say we shall deal with impunity, the Leader of the Minority Party who is a Member of the House must be seen at the forefront on the fight against graft. It is not only graft when it touches on public funds or office but also those who are in private sector engage in it. As leaders, we must be at the forefront to speak against graft and impunity in this country.

It is not lost on me that the same people who purport to be defending Dr Margaret Nyakang'o today are the same ones who were vilifying her yesterday, when she spoke about State capture. She was forced in the wee hours of the last regime to withdraw Ksh15 billion from the Exchequer. We thank God because we are not speaking of her being forced by anybody in the Government today to make withdrawals from the Exchequer or approve payments that she thinks should not be approved. We are talking about her impropriety before she came into office as the Controller of Budget. Nothing touches her conduct in office.

Lastly, I was the Co-Chairman of the National Dialogue Committee. I know a matter that Dr Margaret Nyakang'o said in that Committee that has been blown out of proportion. The Leader of the Minority Party alluded to it, although with some selective amnesia of what was said in that Committee. I was chairing it. The Cabinet Secretary for the National Treasury and Economic Planning answered the question on whether there was budgeted corruption on expenditures in Dr Margaret Nyakang'o's office. She said that there was budgeted corruption. "I can give an example of my office where I am the only public officer". She continued to say: "I know how much I earn, but the budget allocated for my salary by the National Treasury was almost twice that amount. The National Treasury clarified that part of what was budgeted for under the Office of the Controller Budget included other entitlements like car grants and mortgages, which had not been utilised".

The Leader of the Minority Party seems to be pushing political narratives. They have opted not to hear the explanation from the National Treasury due to selective amnesia. If corruption was budgeted for in terms of salaries and wages of only Dr Margaret Nyakang'o in the Office of the Controller of Budget, who would have benefitted from that money other than she herself? Therefore, it is a fallacy to say that somebody is budgeting for corruption in my office, yet I will be the beneficiary. Those on the Minority side have opted not to hear that for the sake of pushing political narratives. They want to run away with the claim of budgeted

corruption and a double salary without a rebuttal from the National Treasury explaining the figures.

Hon. Speaker, I beg that you do not entertain the thought of inviting this House or the Office of the Speaker to determine a matter that is squarely in the domain of the courts, which are part of another arm of Government. The courts will make an informed decision based on evidence on whether or not there was impropriety by Dr Margaret Nyakang'o before she became the Controller of Budget. We should not debate that matter because as the Leader of the Minority Party said, it is *sub judice*.

Lastly, nobody has said that Dr Margaret Nyakang'o is vacating office. I do not know where the Leader of the Minority Party got that from. We will follow the law to the letter in terms of how one gets into office and how one leaves office. I saw the flurry of activities yesterday, including people exciting ethnic emotions and mobilising around ethnicity. We must desist and deal with legal cases in court. Those dealing with graft cases should consult agencies that deal with graft. As leaders and parliamentarians, we should rise above the fray of political engagements when it comes to the chamber and oversee all institutions, including the Office of the Controller of Budget and the Office of the DPP.

Hon. Speaker, I plead with you to decline the invitation by the Leader of the Minority Party.

**Hon. Speaker:** I do not want to escalate this matter.

*(Hon. Junet Mohamed stood in his place)*

Order, Hon. Junet. Take your seat. The Leader of the Minority Party has made some factual submissions before the House. I have read reports in the media that the Controller of Budget has been taken to court. She is a constitutional officeholder and what entails that office is public knowledge. The Leader of the Minority Party has not brought any evidence to the House to the effect that Margaret has been prevented from going to her office. It is an academic and moot matter, and we do not need to belabour it. You have quoted correct Articles of the Constitution. It is also in the public domain that the reasons for Margaret being taken to court are not related to her performance as the Controller of Budget.

Let us leave the matter there so that we do not prejudice her case. We are making it difficult for her lawyers and other lawyers who may turn up in court with the *Hansard*. It may complicate her defence and push her deeper into "legal waters", which is not good.

**Hon. Junet Mohamed** (Suna East, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Junet, I hope you do not want to speak on the case. I will stop you if you start discussing it.

**Hon. Junet Mohamed** (Suna East, ODM): No, Hon. Speaker. I will not discuss the case. I also want to assure you that we are not here to defend anyone. I wanted to bring out a different perspective after consulting with the Leader of the Minority Party. As a senior lawyer, you are aware that constitutional and independent offices report to this House. They do not report to the Executive or the Judiciary. We are addressing this issue in a holistic manner because Dr Margaret Nyakang'o will not be the last constitutional officeholder to be prosecuted or charged. Others will come after her.

How do we address the issue of a constitutional office holder who has been charged in court? The Leader of the Minority Party raised the issue of whether there are provisions in the Constitution for removal from office of a constitutional office holder who is being prosecuted. That is one of the major issues that he was trying to point out. The Leader of the Majority Party said that he is also a constitutional office holder, but the Constitution does not provide for his removal. It is provided for in the Standing Orders.

**Hon. Speaker:** Hon. Junet, you are also whistling in the dark, my friend.

**Hon. Junet Mohamed** (Suna East, ODM): I had a sleepless night because of this lady. We have to look at things retrospectively. We approved her appointment as the Controller of Budget in 2019 after a thorough vetting by the Departmental Committee on Finance and National Planning. I participated in that activity. Did we not know at the time that she had a pending case? That is an indictment on us as Parliament because she came with documents from relevant organisations that deal with criminal offences such as the EACC, and the DCI. Issues are now coming up three years later where it is being claimed that she had a pending case because she stole money seven years ago.

More importantly, regarding the issue that you have been invited to, Hon. Speaker, it is true that we have no role in this matter because it is before the court. However, as the Speaker of this House, you have a constitutional mandate to defend and protect the Constitution, especially constitutional office holders.

Secondly, weighty issues were raised yesterday. There is a reason why the Office of the Controller of Budget and the Office of the Auditor-General were separated under the new Constitution. Otherwise, it should have remained as it was in the previous dispensation.

**Hon. Speaker:** Hon. Junet, you will have to stop there.

**Hon. Junet Mohamed** (Suna East, ODM): I submit. I have said what I wanted to.

**Hon. Speaker:** I am still at a total loss as to what you people want. Hon. Members, let us not prejudice Dr Nyakang'o's case. Secondly, if what Hon. Wandayi is alleging is true and he has evidence, the Speaker will have some locus on the matter. I currently have no locus. I have not received information that Dr Nyakang'o has been stopped from going to her office. I have only read reports in the media that she was charged and released on bail. The media is not an authority on the Floor of this House. I do not know whether she posted bail and walked away.

Hon. Wandayi, if you have any facts beyond what you have given me, I would be happy to review them. You have correctly recited Articles of the Constitution and it ends there. Those Articles do not apply to Dr Nyakango's case, until and unless a situation arises that requires my consideration. You will have to convince me that I have the locus and jurisdiction to deal with the matter. Thank you for raising the matter, but let us leave it there.

What is it, Hon. Farah Maalim?

**Hon. Farah Maalim** (Dadaab, WDM): Hon. Speaker, I appreciate the manner in which you have disposed of this matter. Ordinarily, if somebody within the civil service is taken to court on a criminal matter, that person is immediately interdicted and receives half their salary until the matter is determined. I do not think we took that into consideration when we established constitutional offices. I was in Parliament with you at the time. In view of this challenge, would you probably want to look into that? There is a bit of a constitutional crisis.

**Hon. Speaker:** Hon. Farah, there is no such matter before me at all. So, we will not deal with it.

*(Laughter)*

I heard Rachael talk about selective amnesia. I told you when we met in Mombasa about the candour and banter of debate, Hon. Ichung'wah, the Leader of the Majority Party said that Hon. Wandayi exhibited selective amnesia, but he did not bother about it. This is because it is part of the candour and banter of debate.

*(Hon. (Dr) Rachael Nyamai spoke off the record)*

You should not worry about it. You cannot wail louder than the bereaved while they are quiet. Hon. Wandayi laughed it off because he knows this is part of the candour and banter of debate. Let me call the next Order.

## PAPERS

**Hon. Owen Baya** (Kilifi North, UDA): Thank you very much, Hon. Speaker, for the candour and banter of debate.

I beg to lay the following Papers on the Table:

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

- (a) Kenya Primary Education Equity in Learning Project IDA Grant No. D991-KE and Credit No. 7067-KE – State Department for Basic Education;
- (b) State Department for Co-operatives;
- (c) Kenya Electricity Modernization Project (IDA CR. NO. 5587-KE) – Rural Electrification and Renewable Energy Corporation;
- (d) Towards Ending Drought Emergencies: Ecosystem Based Adaptation in Kenya's Arid and Semi-Arid Rangelands (IUCN Grant No. P02886) – State Department for Livestock;
- (e) Kenya Special Project for BRSM and SAICM (Grant/ Credit Number: Special Programme 2<sup>nd</sup> round approval project 01) – State Department of Environment and Climate Change;
- (f) Horn of Africa Gateway Development Project (IDA Credit No.6768 KE) - State Department for Transport;
- (g) Mombasa-Nairobi-Addis Ababa Road Corridor Project Phase II (Marsabit-Turbi Road) ID No. P-ZI-DBO-027 - Kenya National Highways Authority;
- (h) National Urban Transport Improvement Project Credit No. 5140-KE - Kenya Railways Corporation;
- (i) Dualling of Magongo Road (A109L): Phase II (FIDIC EPC/Turnkey based) - Kenya National Highways Authority; and
- (j) Bagamoyo-Horohoro-Lungalunga-Malindi Road Project (Phase I) ID No:PZI-DBO-129 - Kenya National Highways Authority.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Next Order.

## QUESTIONS AND STATEMENTS

### REQUEST FOR STATEMENT

#### DEATH OF A WORKER AT SHIMONI FISHING PORT CONSTRUCTION SITE IN LUNGALUNGA CONSTITUENCY

**Hon. Speaker:** Hon. Chiforomodo.

**Hon. Chiforomodo Mangale** (Lungalunga, UDM): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Labour regarding death of a worker at the construction site of Shimoni Fishing Port in Lungalunga Constituency, Kwale County.

Hon. Speaker, on 27<sup>th</sup> November 2023, Mr Mbwana Mohamed Mwaburu of ID No. 22693793 met his death on duty at the construction site of Shimoni Fishing Port in Kwale County. The deceased was among workers working for Southern Engineering Company Limited (SECO) which was awarded tender for construction of the Shimoni Fishing Port. It is reported that Mr Mbwana Mohamed Mwaburu and other employees were instructed by their employer to demolish a wall on the site and in the process, the wall fell on Mr Mbwana Mohamed Mwaburu causing suffocation that resulted in his death, while his colleagues sustained serious injuries.

The tragic death of Mr Mwaburu is highly attributed to negligence on the part of his employer, SECO, for not providing a safe working environment. The Third Schedule of the Work Injury Benefits Act, 2007 provides that an employee who is involved in an accident resulting in the employee's disablement or death is subject to benefits provided under the Act. Further, Section 34 of the Act also provides that if an employee dies as a result of an injury caused by an accident, compensation shall be paid to the dependents of the employee in accordance with the provisions of the Third Schedule.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Social Protection on the following—

1. Information on the circumstances under which Mr Mbwana Mohamed Mwaburu of ID No.22693793 passed away.
2. Could the Chairperson provide a report on the safety precautions measures, that SECO has put in place including provision of appropriate gear at the work site for employees in order to protect them from accidents and tragic deaths; and,
3. Plans put in place to ensure that the family of the late Mr Mwaburu and the other workers injured on duty are compensated in accordance with the Work Injury Benefits Act, 2007.

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson of the Departmental Committee on Social Protection. The Leader of Majority Party, who is the Chairperson? Is it Karemba or Alice Ng'ang'a?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Alice Ng'ang'a.

**Hon. Speaker:** Is she in the House?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): She is not.

**Hon. Speaker:** Communicate to her to bring a Statement in response to Chiforomodo's request on the first day sitting of next term. Next Order.

## PROCEDURAL MOTIONS

### EXEMPTION OF CERTAIN BUSINESS FROM STANDING ORDER 40(3)

**Hon. Speaker:** The Leader of Majority Party.

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

THAT, this House resolves to exempt the business appearing as Order Nos.11, 12, 15, 16, 17, 18 and 19 in today's Order Paper from the provisions of Standing Order 40(3), being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party or business sponsored by a committee.

Part of this is putting of Questions, First Readings, consideration of the Committee of the whole House on the Gambling Control Bill, the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.67 of 2023) and the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.68 of 2023).



Hon. Speaker, considering today's morning Sitting is meant for Private Members Bills and Motions, on Tuesday, in the House Business Committee meeting, it was resolved we do two things because of the East African Legislative Assembly (EALA) Games this Thursday. One, exempt this business to be considered this morning and two, have a Sitting on Thursday morning. This is to allow some Members to travel to Kigali on Thursday at 5.00 p.m. I am told the first batch of about 40 Members will be travelling and it may not be feasible to keep them here. Therefore, we resolved to have this Motion and Order No.9 prosecuted this morning.

I beg the House to support this and request the Leader of Minority Party to second.

**Hon. Speaker:** Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): This being a Procedural Motion, I wish to simply second.

**Hon. Speaker:** Thank you.

*(Hon. Silvanus Osoro stood in his place)*

Order, Osoro! Order! Take your seat.

*(Question proposed)*

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

**Hon. TJ Kajwang** (Ruaraka, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes. Do you want to say something?

**Hon. TJ Kajwang'** (Ruaraka, ODM): Thank you, Hon. Speaker. I thank the Leaders of the Majority and Minority Parties for this Procedural Motion. You have given us a raft of those Orders. I may not know in respect of which my submissions would go, but I will just make it simple. Whereas I support all the Procedural Motions in respect of various laws, I have an issue with exempting publication of the Statute Law (Miscellaneous Amendment) Bills. This, of course, being a Procedural Motion, has a big effect in our legislative processes. It has turned out that, at least in the Committees I attend, that many of the legislations that are the focus of the Statute Law (Miscellaneous Amendments) Bills have not undertaken public participation and have not been processed properly by Committees. It is now a big issue. This is the big issue that...

**Hon. Speaker:** Hon. Kajwang', you may have a point and indeed you probably do, but that can be prosecuted at Order No.19.

**Hon. TJ Kajwang'** (Ruaraka, ODM): I do not have a physical Order Paper. That is why I am confused. We have a raft of issues.

**Hon. Speaker:** As a Member of the House Business Committee, what we are prosecuting is your decision in the Committee.

**Hon. TJ Kajwang'** (Ruaraka, ODM): I Know, Hon. Speaker. That is why I was begging your indulgence.

**Hon. Speaker:** Hold your horses.

**Hon. TJ Kajwang'** (Ruaraka, ODM): If it comes to the relevant place, I will prosecute.

**Hon. Speaker:** You will prosecute it then, but not now.

**Hon. TJ Kajwang'** (Ruaraka, ODM): I am most obliged.

**Hon. Speaker:** Thank you. Yes, Hon. Millie Odhiambo.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker, for giving me this opportunity.

I may not have an issue with the Motion raised, but I just want to note as a concern that I have seen a growing trend where we keep rushing Bills. For me, that may be violating a cardinal principle of democracy which is that the majority may have their way but minority

need to have their say. Sometimes that say may be sacrificed at the altar of a technicality such as the Question being put and passed. We may not have the numbers thus lack the ability to stop it. We have been in this House with Hon. Kimani Ichung'wah for a long time. This should be the easiest Parliament. I have said it before and I would repeat it. It should be the easiest because you have the numbers. Having the numbers, however, does not mean emasculating the voices of others. Sometimes, through technicalities, you emasculate voices of others.

I would encourage, going forward, we be given time to debate substantive laws like the Statute Law (Miscellaneous Amendments) Bills that Hon. TJ Kajwang' has mentioned. The rush where sometimes we have one Bill prosecuted from First and Second Readings, Committee of the whole House and Third Reading within two days is not proper. Very soon, Hon. Speaker, some of us may be forced to go to court to challenge the processes on the issue of that cardinal principle of having a say. You may have your way, but we need to have our say.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Millie. From the little experience I have gathered in this House, there have been very sparing moments where Bills have been, so to speak, fast-tracked. Even the fast-tracking has not curtailed debate. I encourage my Deputy Speaker and Members of the Chairpersons' Panel to give as many Members an opportunity to be heard as they possibly can. Quite often, it is you yourselves who tell the Speaker to put the Question as you have over-ventilated on a matter and repeating yourselves. No Speaker on their own puts the Question. Try and be in the House more often than I have noticed so that whenever you want to speak, you are given the opportunity.

It will be an awkward trajectory for a Member of this House to pass a law and then rush to court to challenge it because you are also enjoined in collective responsibility when a law is passed here. That, I leave it to your conscience.

*(Question put and agreed to)*

Next Order.

#### APPROVAL OF THURSDAY MORNING SITTING

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(c), this House resolves to hold a Morning Sitting on Thursday, 7<sup>th</sup> December 2023, commencing at 9.30 a.m. for purposes of considering priority business ahead of the December recess.

I have already explained the reasoning behind that by the House Business Committee, to allow Members Thursday afternoon, those who will be travelling so that we will have finished the business before us.

Allow me to move. I request the Whip of the Majority Party to second.

**Hon. Speaker:** Hon. Osoro.

**Hon. Silvanus Osoro** (South Mugirango, UDA): I second, Hon. Speaker.

**Hon. Speaker:** Order Hon. Members.

*(Question proposed)*

**Hon. Speaker:** Do I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

**Hon. Speaker:** Next Order.

#### REDUCTION OF PUBLICATION PERIOD OF A SPECIFIED BILL

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the publication period of the National Government Administration Laws (Amendment) Bill (National Assembly Bill No.73 of 2023) from fourteen (14) days to twelve (12) days.

We, again, resolved to reduce the publication period of this Bill by just two days, from 14 to 12 days, aware, without anticipating debate, that we will be proceeding on recess tomorrow, to allow us to publish this Bill and have it come for First Reading before we go for recess so that when committees resume their normal sittings during the recess, they will do adequate public participation when they have enough time.

I request the Deputy Leader of the Majority Party to second in agreement with this Motion.

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Speaker, this being a Procedural Motion and the Leader of the Majority Party has made it very clear, I second.

*(Question proposed)*

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

*(Question put and agreed to)*

**Hon. Speaker:** Next Order.

#### MOTION

#### CONSIDERATION OF REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE NATIONAL LOTTERY BILL

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the National Lottery Bill (National Lottery Bill No. 69 of 2023)

*(Moved by Hon. Kimani Ichung'wah on 30.11.2023)*

*(Resumption of consideration interrupted on 30.11.2023)*

**Hon. Speaker:** Hon. Members, I now call upon the Mover to move. Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, we had indeed reported. I am just moving for the Third Reading.

**BILL***Third Reading*

NATIONAL LOTTERY BILL  
(National Assembly Bill No.69 of 2023)

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move that the National Lottery Bill (National Assembly Bill No.69 of 2023) be now read a Third Time. I request Member for Kwanza to second.

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

**Hon. Speaker:** Thank you. I wish it to be on record that the House is properly constituted in terms of numbers.

*(Question proposed)*

*(Question put and agreed to)*

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

**Hon. Speaker:** Next Order.

**MOTION**

APPROVAL OF SESSIONAL PAPER No.2 ON THE NATIONAL TAX POLICY

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on its consideration of the Sessional Paper No.2 of 2023 on the National Tax Policy, laid on the Table of the House on Thursday, 23<sup>rd</sup> November 2023, and approves Sessional Paper No.2 of 2023 on the National Tax Policy as recommended in the Report.

*(Moved by Hon. Kuria Kimani on 30.11.2023)*

*(Debate concluded on 30.11.2023)*

*(Question put and agreed to)*

**Hon. Speaker:** Next Order.

**BILLS***First Readings*

THE BASIC EDUCATION AMENDMENT BILL  
(National Assembly Bill No.59 of 2023)

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION AMENDMENT BILL  
(National Assembly Bill No.66 of 2023)

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THE NATIONAL GOVERNMENT ADMINISTRATION LAWS AMENDMENT BILL  
(National Assembly Bill No.73 of 2023)

*(The Bills were read a First Time  
and referred to relevant Committees)*

**MOTION**

APPROVAL OF THE PFM (ULINZI PRIME HEALTH SERVICES  
FUND) REGULATIONS, 2023

**Hon. Speaker:** Hon. Chepkonga.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Hon. Speaker, I beg to move:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Ulinzi Prime Health Services Fund) Regulations, 2023, laid on the Table of the House on Tuesday, 5<sup>th</sup> December, 2023, and pursuant to the provisions of Section 24(4) of the Public Finance Management Act, 2012, approves the Public Finance Management (Ulinzi Prime Health Services Fund) Regulations, 2023 published as Legal Notice No.175 of 2023.

The import and the overarching rationale for the creation of this Fund is to provide for the utilisation of the idle capacity in the military hospitals that are about six across this country. We were informed that at the moment, the military runs about six hospitals - Levels 4, 5, and 6, which are under construction. The capacity in these hospitals runs at only 50 per cent. We were also informed that these military hospitals only take care of military personnel. It does not include even those people who work in the military facilities like workers in the messes or cleaners. If you fall sick, you cannot be treated in that military hospital situated in the military installation where you are. You have to be taken out for treatment.

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

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

Hon. Deputy Speaker, we are also informed that a child of a military officer who attains the age of 21 cannot be treated in that military hospital because he is overage, notwithstanding the fact that they have a cover. They are still excluded. The reason these regulations are being brought before this House is to open up that space to the people who are working in the military installation and the children of military officers who have already attained the age of 21 years and are still covered. In fact, these regulations provide that it is not for paying customers or clientele. It is only clientele who have a cover. If you do not have a cover, you will not be allowed.

We were given an example of the Governor of Marsabit County, and we do not want him to fall sick, but assuming that he falls sick and the best hospital is the military hospital that is in Marsabit, you cannot take him to that military facility because it is not allowed by law. The passage of these regulations will allow Members of Parliament, wherever you they may be found, to be treated in a military installation as long as they have cover. Most of all of us are under a cover. Therefore, you will not need to pay a cash amount to be treated in those hospitals.

Secondly, the general import of this regulation is to facilitate the establishment, modernisation, operation and maintenance of the Kenya Defence Forces hospital facilities. If the idle capacity is not utilised, it means that taxpayers must continue to maintain these hospitals. They can admit civilians at a fee and use the funds for modernisation. This is provided in Regulation 4. It will also enhance research and training to improve the quality of health services offered by the KDF hospitals.

The third objective and strategy of this Fund is to facilitate the purchase of modern equipment and provide drugs for the KDF hospitals. Once you open the hospitals up, you will need to provide sufficient equipment. For the information of this House, the most qualified surgeons are in the Defence Forces hospitals. As you may have heard or seen, there is a modern Level 6 hospital under construction on Waiyaki Way. It is due for completion in 2025 and has been earmarked to be a referral hospital. It will be a state-of-the-art facility that will admit anyone, including presidents within the region. You will not need to go to India or to an American hospital, like my very good friend Hon. Moses Kuria, the former Cabinet Secretary for Investments, Trade and Industry, who was taken to an American hospital in Dubai. Such cases will be treated at the Level 6 facility that is currently under construction.

This Fund, which is created under the Public Finance Management Act, will also provide funds for administration expenses such as salaries, allowances and pension for those who will be working there. There are about 19 regulations for the creation of this Fund, most of which deal with its administration and how it is going to be audited *et cetera*. The policy context is intended to expand and modernise the Level 4, Level 5 and Level 6 medical facilities in military installations. These hospitals are located in Nairobi, Eldoret, Lanet in Nakuru, Marsabit and other places. Opening up these facilities necessitates the establishment of the Fund for the KDF medical system.

The management of the Fund will be supervised and overseen by an advisory board that will be responsible to the Defence Council. The most important thing to note is that the CEO of this facility will solely be nominated and appointed by the Defence Council and not the sitting board. This is because the appointee will be a military person, who will be in charge of the overall management of the hospital.

Ulinzi Prime Health Services will also provide a larger and more diverse clientele to boost hands-on opportunities for learners, facilitate training in specialised facilities and further increase research opportunities for the betterment of health care under the Defence College of Health Sciences. This is a constituent college that is domiciled in the National Defence University College in Karen as well as the Level 6 research and referral hospital. As I had mentioned, the clientele will be picked as required by the rules that govern military installations.

The Regulations were published and forwarded to the National Assembly within the period required under the Statutory Instruments Act. There was a comprehensive explanatory memorandum that was submitted together with the Regulations, which we processed and we were satisfied. The Committee was also satisfied with the level of public participation, as contemplated under Articles 10 and 118 of the Constitution. It was also satisfied with the explanatory memorandum and the impact assessment statement that was provided therein. We were satisfied that all the procedural requirements under the Statutory Instruments Act were met.

With those few remarks, I beg to move and request Hon. Gichimu, the Vice-Chairman of the Committee, to second.

**Hon. Gichimu Githinji** (Gichugu, UDA): Thank you, Hon. Deputy Speaker. I second the Motion on the Consideration of the Public Finance Management (Ulinzi Prime Health Services Fund) Regulation, 2023. I do not want to run the risk of repeating what the Chairman has ably and substantially covered on what was deliberated before the Committee and the

Report that was tabled in support of this Motion. I would like to add that this Fund, according to the Regulations, will be exclusively utilised for its purposes and objects. There will be no diversion of the usage of this Fund. The most important thing to also note is that this Fund will be solely administered by the Principal Secretary on behalf of the Board.

Looking at the various KDF facilities that are spread across the country, we established that they have a bed capacity of over 700 yet only about 50 per cent of the facilities are being utilised. The KDF felt that these facilities should also be open to usage by communities within their proximities, considering these facilities have been constructed by taxes from Kenyans. It is time that Kenyans also start benefiting from these facilities and to make sure that the new facility, which is almost complete and will have a 700-bed capacity, is available for use by the public.

These facilities will also be open to Members of Parliament and any other persons who meet the requirements as stipulated under the Regulations. Further, the Committee considered the requirements as per the Statutory Instrument Act and confirmed that the Regulations comply with all the requirements, including submission before Parliament, through the Clerk of the National Assembly, within seven days. It also conducted public participation and considered the explanatory memorandum and the regulatory impact assessment. Opening these facilities to the public is for the benefit of Kenyans. This also aligns with the Kenya Kwanza Government's Universal Health Coverage (UHC) agenda. We cannot discuss universal health coverage without fully utilising all the available facilities. We know the President, His Excellency William Ruto, is passionate about this. So, the Kenya Defence Forces (KDF) are aligning themselves with the Government's policy on UHC.

Hon. Deputy Speaker, I do not want to belabour the point because this has ably been covered. I also believe that more Members may wish to contribute to this. Therefore, I beg to second.

*(Question proposed)*

**Hon. George Murugara** (Tharaka, UDA): On a point of order.

**Hon. Deputy Speaker:** What is your point of order?

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Deputy Speaker. The Chairperson and the Vice-Chairperson of the Committee on Delegated Legislation have done an excellent job moving and seconding this Motion. Therefore, I am convinced that the Mover should be called upon to reply so that we can move to the next important business.

*(Hon. Julius Sunkuli spoke off the record)*

**Hon. Deputy Speaker:** Hon. Sunkuli, what do you want to say?

**Hon. Julius Sunkuli** (Kilgoris, JP): Hon. Deputy Speaker, my name is on the screen. We have the right to be heard because this is a House of debate, and of all the people, I do not expect that from Hon. Murugara. We cannot have a Motion moved, seconded, proposed and voted on.

**Hon. Deputy Speaker:** Hon. Sunkuli, I do not see your name on the screen. You have not even pressed the intervention button.

**Hon. Julius Sunkuli** (Kilgoris, JP): Hon. Deputy Speaker, it is clear that my name is there. I do not know why you cannot see it.

**Hon. Deputy Speaker:** Earlier, you did not press the intervention button indicating that you wanted to speak. So, how can I give you an opportunity when you have not shown interest?

**Hon. Julius Sunkuli** (Kilgoris, JP): Can I proceed?

**Hon. Deputy Speaker:** Yes. Proceed and make your contribution.

**Hon. Julius Sunkuli** (Kilgoris, JP): Okay. I am a member of the Committee on Delegated Legislation. Therefore, I support what my Chairperson and the Vice-chairperson have done. The armed forces hospitals are well-equipped in many parts of the world. They offer quality healthcare and have well-founded policies. In Kenya, military hospitals are restricted to the serving military officers, their families and dependents and, to some extent, the retired soldiers.

This Motion shows the Government's intention to allow about 53 per cent of the military hospitals' capacities to civilians. This is sound because most military hospitals work on excess capacity because they do not have enough patients. Most of those military facilities are idle and yet, the public needs them. This is timely because Kenyans will now be exposed to those well-equipped and efficient facilities.

The Government can fund those hospitals by having the public pay for the services. In the end, this will also improve the hospitals. That is because the more they are in use, the more the staff will become efficient to run them.

I support.

**Hon. Deputy Speaker:** Hon. Dido Raso, the Member for Saku.

**Hon. Ali Raso** (Saku, UDA): Thank you very much, Hon. Deputy Speaker. I also thank the Mover of this Motion because this has come at the right time when we are discussing the universal healthcare in the country.

Military officers tend to be healthy until 40 to 45 years old. They join the service at a very young age of 20 and 21 years, or 23 years for cadet officers. Those officers do not use those military hospitals as often. We have about five Level 6 hospitals. We have one in Isiolo and another in Gilgil, Nakuru County. I request that the retired officers who have served this country for many years be prioritised. The second group that should be considered are senior government officials at the county and national levels. Instead of going to private hospitals like Nairobi Hospital, Aga Khan Hospital, MP Shah Hospital and others, those military hospitals can generate enough funds to help as many Kenyans as possible.

Opening up those military hospitals to the public will give military doctors, clinicians, and nurses a larger platform to practice than when they deal with the healthy population in the military service. Those hospitals must go further to employ civilian nurses, doctors and paramedics. They should open up internships and other opportunities to the public.

With those few remarks, I support. Thank you.

**Hon. Deputy Speaker:** Hon. Atandi, the Member for Alego Usonga. There seems to be no interest in this.

**Members:** Put the question.

**Hon. Deputy Speaker:** We can defer the putting of the Question. Hold on a moment! I will give one person a chance. There is only one person who is here. Hon. Catherine Omanyoo? She is not there. I will give the Floor to Hon. Barrow.

**Hon. Dekow Mohamed** (Garissa Township, UDA): Thank you, Hon. Deputy Speaker, for giving me this opportunity. I want to commend and congratulate the leadership of Kenya Defence Forces (KDF) for taking up this initiative. As a retired member of the military, I want to confirm that we have well-established hospital facilities across the country that are run by the KDF. As has been said by the Chair of the Committee on Delegated Legislation, which I am a member of, and the brief we got from the KDF and Ministry of Defence, they have six Level 6 and Level 5 hospitals across the country. One is coming up as a Level 6 Hospital and will be ready in 2025. We have been informed that those facilities operate at 50 per cent capacity.

Those facilities, when opened up to the members of the public, especially those of us who have retired from the service and have medical insurance cover by the military, can access



those facilities. Those facilities are well-equipped. They are manned by highly trained professionals in the medical sector. They are well facilitated by the military and the Kenyan Government. The use of those facilities by the public and opening them up to the public will go a long way in helping Kenyans because those facilities are established using Government funds.

With those few remarks, I support the Motion.

**Hon. Deputy Speaker:** Mover to reply.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Deputy Speaker. I want to thank the many speakers who have supported this Motion.

I beg to reply.

**Hon. Deputy Speaker:** Thank you.

*(Question put and agreed to)*

**Hon. Deputy Speaker:** Hon. Members, before I move to the next Order, I wish to recognise the presence of Makueni County Kenyatta University Student Association (MAKUSA) from Makueni County who are seated in the Public Gallery.

*(Applause)*

Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

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

### IN THE COMMITTEE

*[The Temporary Chairlady (Hon. (Dr) Rachael Nyamai) took the Chair]*

THE GAMBLING CONTROL BILL  
(National Assembly Bill No.70 of 2023.)

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Hon. Members, we are in the Committee of the Whole House to consider the Gambling Control Bill, (National Assembly Bill No.70 of 2023). So, you may take your seats Members who would like to participate in this.

*(Clause 3 agreed to)*

*Clause 4*

**The Temporary Chairlady** (Hon. (Dr) Rachael Nyamai): Mover.

**Hon. Dan Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 4 of the Bill be amended in sub-clause (1) by deleting paragraph (h) and substituting therefor the following new paragraph-

(h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, regulate and supervise the reporting institutions licensed under this Act.

The justification for this is that the amendment seeks to ensure that reporting institutions that are regulated under the Bill will also be subject to the regulations by the financial reporting centre that is established under the Proceeds of Crime and Money Laundering Act No.9 of 2009.

*[The Temporary Chairlady (Hon. (Dr) Rachael Nyamai) left the Chair]*

*[The Temporary Chairlady (Hon. Martha Wangari) took the Chair]*

*(Question of the amendment proposed)*

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

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

*(Clause 4 as amended agreed to)*

Clause 5

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Dan Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT the Bill be amended in Clause 5—

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

“(a) implement and ensure compliance to this Act;”

(b) in paragraph (b) by deleting the words “single business” and substituting therefor the words “trade”;

(c) by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) ensure periodic monitoring and evaluation of betting, lotteries and gaming trade permits issued by county governments;” and

(d) by deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) handle complaints and facilitate arbitration; and”

The justification is that the amendment seeks to correct grammatical errors as well as to provide that county governments shall be responsible for issuing trade permits to licensed gambling operators.

*(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)*

*Part III*

**The Temporary Chairperson** (Hon. Martha Wangari): Mover.

**Hon. Dan Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the title to Part III be amended by inserting the words “OF KENYA” immediately after the words “REGULATORY AUTHORITY”.

The amendment seeks to change the name of the Authority to the Gambling Regulatory Authority of Kenya.

*(Question of the amendment proposed)*

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

*(Part III as amended agreed to)*

*Clause 6*

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 6 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “of Kenya” immediately after the words “Regulatory Authority”;
- (b) by deleting sub-clause (3) and inserting the following new sub-clause—  
“(3) The Authority shall be the successor to the Betting Control and Licensing Board established under section 3 of the Betting, Lotteries and Gaming Act.”
- (c) by deleting sub-clause (4).

The amendment seeks to change the name of the Authority to the Gambling Regulatory Authority of Kenya, correct grammatical errors and delete sub-clause (4) whose provisions are already contained in Clause 124 of the Bill.

*(Question of the amendment proposed)*

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

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

*(Clause 6 as amended agreed to)*

*Clause 7*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended—

(a) in sub-clause (1) by deleting paragraph (e) and inserting the following new paragraph—

“(e) three persons, not being public officers appointed by the Cabinet Secretary, being persons with background in finance, law, betting and lotteries or business management, provided that—

(i) one shall represent persons with disabilities; and,

(ii) one shall represent faith-based organisations.

(b) in sub-clause 3 by inserting the words “based on satisfactory performance” immediately after the words “one further term of three years”.

(c) by deleting sub-clause (4) and inserting the following new sub-clause—

“(4) In appointing the members of the Board under subsection (1)(e), the Cabinet Secretary shall

(a) ensure that not more than two-thirds of the members are of the same gender,

(b) observe the principle of regional and ethnic balance; and,

(c) have due regard to the principle of fair competition and merit as the basis for the appointments.”

The amendment seeks to provide for greater inclusivity in the membership of the Board, since the objective of the Bill affects the wider society who may be represented by persons with disabilities and faith-based organisations. It also seeks to provide for fair competition and merit as a basis for appointment, to align to the provisions of Articles 10 and 232 of the Constitution.

*(Question of the amendment proposed)*

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

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

*(Clause 7 as amended agreed to)*

*Clause 8*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 8 of the Bill be amended—

(a) in sub-clause (1) by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) was not a director, employee, or shareholder of a gambling operator in the preceding five years;”

- (b) in sub-clause (2) by inserting the words “without the option of a fine” immediately after the words “imprisonment for a term exceeding six months” appearing in paragraph (b);

The amendment seeks to delete paragraph (d) to allow for current and former employees of the Authority to be eligible for appointment as the Chairperson of the Board, to allow institutional memory and technical expertise.

It also seeks to insert a new paragraph (d) to prohibit persons who were in the preceding 5 years, directors or employees of gambling operators, so as to avoid conflict of interest. It also amends sub-clause (2) (b) to insert the aspect of imprisonment without an option of a fine for clarity purposes.

*(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 8 as amended agreed to)*

*(Clause 9 agreed to)*

#### *Clause 10*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 10 of the Bill be amended in sub-clause (1)–

- (a) in paragraph (i) by deleting the word “within” appearing in the opening sentence;
- (b) by deleting paragraph (j);
- (c) by deleting paragraph (l); and,
- (d) in paragraph (o) by inserting the words “and make determination on” immediately after the word “receive”.

The amendment seeks to correct a grammatical error in paragraph (i) and delete paragraph (j) which is a repetition of the provisions contained in paragraph (e). It also deletes paragraph (l) which is a repetition of the provisions contained in sub-paragraph (i) of paragraph (h). It also adds the words in paragraph (o) for clarity purposes.

*(Question of the amendment proposed)*

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

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

*(Clause 10 as amended agreed to)*

*Clause 11*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

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

Gambling operation  
guidelines.

11. (1) The Cabinet Secretary shall, in consultation with the Authority, prescribe guidelines of practice on the manner in which facilities for gambling are operated, whether by the holder of a license under this Act or by any other person.

(2) A guideline issued under subsection (1) shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of—

- (a) ensuring that gambling is conducted in a fair and open way;
- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling;
- (c) making assistance available to persons who are or may be affected by problems related to gambling;
- (d) protecting of vulnerable gamblers;
- (e) information and data protection in accordance with the Data Protection Act;
- (f) online payment protection;
- (g) creation of secure online gambling environment;
- (h) ethical and responsible marketing;
- (i) safety measures against criminal activities, anti-money laundering and terrorism; and,
- (j) public awareness and education campaigns.

No. 24 of 2019.

(3) The Cabinet Secretary may, in consultation with the Authority, review the guidelines issued under this section.

No. 29 of 2022.

(4) Before issuing or revising the guidelines under this section, the Cabinet Secretary and the Authority shall consult—

- (a) any person who represents licensing authorities;
- (b) the body responsible for the protection of the best interests of the child, as established in the Children Act;
- (c) any person who represents the Inspector General of Police;
- (d) any person who represents the interests of punters; and,
- (e) the members of public in such manner as the Authority considers appropriate.

The amendment seeks to re-draft Clause 11 to provide that the Cabinet Secretary shall prescribe guidelines which shall have the force of law as stipulated in the Statutory Instruments Act No.23 of 2013. It also seeks to include the aspect of the consultation with the body responsible for the protection of the best interest of the child to give effect to the provisions of

Article 53(2) of the Constitution, which provide that a child's best interests are of paramount importance in every matter concerning the child.

*(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 11 as amended agreed to)*

### Clause 12

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 12 and inserting the following new clause—

Powers of the Board.

12. (1) The Board shall have all powers necessary for the proper performance of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), the Board shall have power to —

- (a) control, supervise and administer the assets of the Authority in such manner as best promotes the purpose for which the Authority is established;
- (b) receive any grants, gifts, donations or endowments made to the Authority and make disbursements therefrom in accordance with the provisions of this Act;
- (c) conduct such investigations as may be necessary for the enforcement of this Act;
- (d) approve the opening, operation and closing of the bank accounts of the Authority with the approval of the National Treasury;
- (e) conduct such investigations as may be necessary for the implementation of the Act;
- (f) inquire into any complaint against a licensee; and,
- (g) undertake any activity necessary for the fulfilment of any of the functions of the Board.

The amendment seeks to re-draft the clause for purposes of proper grammatical form.

*(Question of the amendment proposed)*

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

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

*(Clause 12 as amended agreed to)*

*(Clauses 13 and 14 agreed to)*

*Clause 15*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 15 of the Bill be amended by deleting the words “in consultation with relevant government agencies” and substituting therefor the words “on the advice of the Salaries and Remuneration Commission.”

The amendment seeks to align the provision with Article 230(4) of the Constitution, which provides that the Salaries and Remuneration Commission shall advise the national and county governments on the remuneration and benefits of all public officers.

*(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 15 as amended agreed to)*

*Clause 16*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 16 of the Bill be amended in sub-clause (1) by deleting the words “in consultation with relevant government agencies” and substituting therefor the words “on the advice of the Salaries and Remuneration Commission.”

The amendment seeks to align the provision with Article 230 (4) of the Constitution, which provides that the Salaries and Remuneration Commission shall advise the national and county governments on the remuneration and benefits of all public officers.

*(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 16 as amended agreed to)*

*Clause 17*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.



**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 17 of the Bill be amended in sub-clause (2)—

(a) by deleting the word “keeping” appearing in paragraph (f) and substituting therefor the word “keep”; and,

(b) by deleting the word “keeping” appearing in paragraph (g) and substituting therefor the word “keep”.

The amendment seeks to correct grammatical errors.

*(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 17 as amended agreed to)*

#### Clause 18

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 18 of the Bill be amended by deleting the words “in consultation with the relevant Government agencies” and substituting therefor the words “on the advice of the Salaries and Remuneration Commission”.

The amendment seeks to align the Bill with the provisions of Article 234 of the Constitution, which provides that the Salaries and Remuneration Commission (SRC) shall advise the national Government and county governments on the remuneration and benefits of public officers.

*(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 18 as amended agreed to)*

*(Clauses 19 and 20 agreed to)*

#### Clause 21

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 21 of the Bill be amended—

- (a) by deleting paragraph (b); and,
- (b) in paragraph (g) by deleting the word “lend” and substituting therefor the word “lent”.

The amendment in (a) seeks to remove the gambling levy as a source of funds for the Authority since Clause 46 of the Bill that provides for payment of the gambling levy is being deleted. The amendment in (b) seeks to correct a grammatical error.

*(Question of the amendment proposed)*

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

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

*(Clause 21 as amended agreed to)*

*(Clause 22 agreed to)*

### Clause 23

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 23 and inserting the following new clause—

Annual estimates

23. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board of that year.

(2) The annual estimates shall make provisions for all estimated expenditure of the Board for the financial year concerned, and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the staff of the Board;
- (b) payment of pensions, gratuities and other charges in respect of former staff of the Board;
- (c) proper maintenance of the buildings and grounds of the Board;
- (d) maintenance, repair and replacement of the equipment and other property of the Board;
- (e) payment of allowances of the members of the Board and the members of the Board; and,
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Board may deem fit.

The amendment seeks to provide for a comprehensive provision on annual estimates as per the House 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  
be inserted, put and agreed to)*

*(Clause 23 as amended agreed to)*

#### Clause 24

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 24 of the Bill be amended in sub-clause (2) by inserting the word “Management” immediately after the words “Public Finance”.

The amendment seeks to provide for the correct citation of the Public Finance Management (PFM) Act.

*(Question of the amendment proposed)*

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

*(Clause 24 as amended agreed to)*

*(Clauses 25 and 26 agreed to)*

#### Clause 27

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 27 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “or service” immediately after the words “the activity”; and,
- (b) in sub-clause (2) by deleting the words “as it deems fit” appearing in paragraph (r) and substituting therefor the words “as may be prescribed in regulations.”

The amendment in (a) seeks to insert the words “or service” for clarity purposes. The amendment in (b) stipulates that the regulatory authority is required to license other forms of gambling through regulations to take into account the dynamic nature of gambling activities.

*(Question of the amendment proposed)*

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

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

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

*(Clause 27 as amended agreed to)*

*(Clause 28 agreed to)*

Clause 29

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 29 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “under the Second Schedule” appearing in paragraph (a) and substituting therefor the words “by the Cabinet Secretary in regulations;”;
- (b) in sub-clause (3)—
  - (i) by inserting the words “in relation to the body corporate and its directors, as applicable” immediately after the words “consider” appearing in the opening sentence;
  - (ii) by deleting paragraph (d);
  - (iii) by deleting paragraph (e);
- (c) in sub-clause (4)—
  - (i) by inserting the words “or the directors of the body corporate” immediately after the word “applicant” appearing in the opening sentence in paragraph (a);
  - (ii) by deleting the words “in the opinion of the Authority, was” appearing in sub-paragraph (a)(iii) and substituting therefor the words “is proven to be”;
- (d) in sub-clause (6) by deleting the words “An applicant” and substituting therefor the words “A person”;
- (e) by deleting sub-clause (8).

The amendment in (a) seeks to amend sub-clause (1) to ensure that application fees are provided for in regulations which are easy to amend. It also seeks to amend sub-clauses (3) and (4) to ensure that the consideration shall be applied both to the body corporate as well as its directors. The amendment also deletes sub-clauses (3)(d) and (e) since the threshold provided for consideration in the paragraph is subjective and measurable. The amendment seeks to ensure that correct reference is made to a person in sub-clause (6) to ensure that the penalty imposed attaches to a natural person who makes a false statement.

*(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 29 as amended agreed to)*

*Clause 30*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 30 of the Bill be amended by deleting sub-clause (3) and inserting the following new sub-clause—

“(3) A gambling licence issued under this section shall be valid for a period of twelve months from the date of issue or for such other period as may be prescribed in regulations.”

The amendment seeks to ensure that the validity period of a license issued under the Bill is expressly stated in the main legislation and ,if otherwise, the regulations shall provide an invalidity period.

*(Question of the amendment proposed)*

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

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

*(Clause 30 as amended agreed to)*

*Clause 31*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 31 of the Bill be amended in sub-clause (1) by deleting the words “may be determined by the Communications Authority of Kenya from time to time” appearing in paragraph (c) and substituting therefor the words “prescribed by the Cabinet Secretary in consultation with the Authority and the Communications Authority of Kenya”.

The amendment seeks to ensure that all license conditions are made available to the applicants in the regulations to avoid uncertainty.

*(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 31 as amended agreed to)*

*Clause 32*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 32 of the Bill be amended in sub-clause (1) by deleting the words “attached to the” appearing in paragraph (d) and substituting therefor the words “prescribed in the Act and which is required for the issuance of a”.

The amendment seeks to provide clarity and ensure that all license conditions shall be set out in the Act.

*(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 32 as amended agreed to)*

*Clause 33*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 33 of the Bill be amended in sub-clause (2) by deleting the words “mutatis mutandis” and substituting therefor the words “with the necessary modifications”.

The amendment seeks to provide simple language as required in the House 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 33 as amended agreed to)*

*(Clause 34 agreed to)*

*Clause 35*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 35 of the Bill be amended

- (a) in sub-clause (1) by deleting the word “prominently” wherever it appears;
- (b) in sub-clause (3) by deleting the word “licenses” and substituting therefor the word “license”.

The amendment seeks to remove subjective drafting and correct grammatical errors.

*(Question of the amendment proposed)*

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

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

*(Clause 35 as amended agreed to)*

#### Clause 36

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 36.

The amendment seeks to remove the provisions on the transfer of licenses from the Bill. Instead, any entity intending to be issued with gambling license must make an application to the authority in the prescribed manner. This will ensure the deterrence of the possibility of money laundering by the gambling operators.

**The Temporary Chairlady** (Hon. Martha Wangari) Is this a deletion of clause 36?

**Hon. Daniel Wanyama** (Webuye West, UDA): Yes.

*(Question of the amendment proposed)*

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

*(Clause 36 deleted)*

*(Clauses 37, 38 and 39 agreed to)*

#### Clause 40

**The Temporary Chairlady** (Hon. Martha Wangari): Mover to move in amended form.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 40 of the Bill be amended in sub-clause (3) by deleting the words “not provided for under this Act” and substituting therefor the words “prescribed under section 27(2)(r).”

I beg to move a further amendment to clause 40 by deleting sub-clause (4).

**The Temporary Chairlady** (Hon. Martha Wangari): Be certain of the amendment you want to move. You can consult.

**Hon. Daniel Wanyama** (Webuye West, UDA): We are deleting sub-clause 4 because it is a repetition of sub-clause 2. The justification is the regulation should provide for the applicable security bond or bank guarantee for gambling activities in accordance with the proposed amendment to clause 27(2)(r). It also provides for the deletion of sub-clause (4) which is necessary, since it is a repetition of sub-clause (2).

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): Leader of the Majority Party, do you have something to say on this.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I was not certain whether the Chairperson moved the other amendment as per the Order Paper.

**The Temporary Chairlady** (Hon. Martha Wangari): He moved it is as per the Order Paper with a further amendment.

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

**The Temporary Chairlady** (Hon. Martha Wangari): Okay.

*(Question, that 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 40 as amended agreed to)*

*(Clauses 41 and 42 agreed to)*

#### Clause 43

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 43 of the Bill be amended in sub-clause (1) by deleting the word "by".

The justification is correction of grammatical error.

*(Question of the amendment proposed)*

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

*(Clause 43 as amended agreed to)*

*(Clause 44 agreed to)*

*(Clauses 45 and 46 withdrawn)*



**The Temporary Chairlady** (Hon. Martha Wangari): Before we go to Clause 47, there was a communication by the Speaker on the withdrawal of certain clauses. That is 45 and 46. So, we will go to clause 47. Mover.

*Clause 47*

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 47 and substituting therefor the following new clause—

Application  
for a  
permit.

**47.** (1) A holder of a gambling licence issued by the Authority under section 27 shall apply for a trade permit from the respective county government for a premise within which the person intends to carry out the licensed gambling activity.

(2) An application for a gambling permit shall be in such a manner as may be prescribed by the respective county government and shall be accompanied by—

- (a) the fee prescribed by the respective county government;
- (b) a licence issued by the Authority; and,
- (c) such other information as the county government may consider necessary for the determination of the application.

(3) A county government shall grant a permit upon determining the suitability of the intended premises for which the application is made and considering the requirements set out in subsection (2).

(4) A permit issued under this Act shall not be transferable.

*(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 47 as amended agreed to)*

*(Clauses 48, 49 and 50 agreed to)*

*Clause 51*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 51.

*(Question of the amendment proposed)*

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

*(Clause 51 deleted)*

*(Clause 52 agreed to)*

### Clause 53

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 53 of the Bill be amended in sub-clause (4) by deleting the word “above”.

*(Question of the amendment proposed)*

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

*(Clause 53 as amended agreed to)*

### Clause 54

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 54 and inserting the following new clause—

Conduct of a  
public lottery.

54. (1) The Authority or county government shall, in respect of any public lottery, impose the conditions prescribed in the Act or in regulations to ensure that a lottery is promoted and conducted efficiently for the purpose for which it is being promoted.

(2) In conducting a public lottery under this Act, a promoter—

- (a) may deduct operating expenses not exceeding twenty per cent of gross proceeds of the lottery;
- (b) shall provide insurance bond or bank guarantee for the conduct of the lottery;
- (c) shall ensure proper and equitable distribution of the charitable funds of the lottery;
- (d) shall take reasonable measures to ensure that a purchaser of a ticket or a chance in a lottery is protected against fraud; and,
- (e) shall take such steps as it may deem necessary to ensure that any conditions imposed by the Authority are complied with.

(3) In this section, the term “gross proceeds” means the total proceeds received from a lottery prior to any deductions.

*(Question of the amendment proposed)*

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

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

*(Clause 54 as amended agreed to)*

*(Clause 55 agreed to)*

#### Clause 56

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 56 of the Bill be amended in sub-clause (2) by deleting paragraph (1).

*(Question of the amendment proposed)*

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

*(Clause 56 as amended agreed to)*

*(Clauses 57 and 58 agreed to)*

#### Clause 59

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 59 of the Bill be amended in sub-clause (2)

- (a) by deleting the words “or otherwise” appearing in paragraph (b); and
- (b) by deleting the words “or otherwise” appearing in paragraph (c).

*(Question of the amendment proposed)*

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

*(Clause 59 as amended agreed to)*

*(Clauses 60, 61 and 62 agreed to)*

#### Clause 63

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 63 of the Bill be amended in sub-clause (1) by inserting the word “the” immediately after the words “in consultation with”

*(Question of the amendment proposed)*

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

*(Clause 63 as amended agreed to)*

*(Clauses 64 and 65 agreed to)*

#### Clause 66

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 66 and inserting the following new clause-

Control of betting machines.

66. (1) A licensee shall ensure that their betting machines—

(a) are sourced from a certified source with international certification standards;

(b) have an import certificate issued by the Authority indicating the model and the functions of the machine; and

(c) undergo standards verification after every three months.

(2) The standards verification referred to in subsection (1)(c) and developed by the Authority shall be conducted by the Kenya Bureau of Standards.

(3) A person shall not operate a betting machine unless the person has been issued with a valid bookmaker’s licence.

(4) A single bet in a gambling machine shall be a minimum of twenty shillings only.

*(Question of the amendment proposed)*

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

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

*(Clause 66 as amended agreed to)*

#### Clause 67

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

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THAT, Clause 67 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause-

“(4) The Cabinet Secretary shall, in consultation with the Authority, make regulations prescribing the places where gambling machines shall be placed including the distance to-

- (b) learning institutions;
- (c) religious establishment; and
- (d) residential areas”.

*(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 67 as amended agreed to)*

*(Clauses 68 and 69 agreed to)*

#### Clause 70

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 70 of the Bill be amended in sub-clause (3) by inserting the word “the” immediately after the words “prescribed under”.

*(Question of the amendment proposed)*

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

*(Clause 70 as amended agreed to)*

#### Clause 71

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 71 of the Bill be amended-

- (a) in sub-clause (2) by deleting the word “ecosystem” appearing in paragraph (c) and substituting therefor the word “system”;
- (b) in sub-clause (3) by deleting the word “strictly”;
- (c) in sub-clause (4) by deleting the word “may” and substituting therefor the word “shall”; and

(d) in sub-clause (6) by deleting the opening sentence in paragraph (a) and inserting the following new opening sentence-

“(a) the platforms for participation which may, where applicable, include-”

*(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 71 as amended agreed to)*

*(Clauses 72, 73 and 74 agreed to)*

#### Clause 75

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 75 of the Bill be amended in sub-clause (7) by inserting the following proviso-

“Provided that this provision shall not apply to free bets and bonus bets conducted in the ordinary course of business”.

*(Question of the amendment proposed)*

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

*(Clause 75 as amended agreed to)*

#### Clause 76

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 76 of the Bill be amended in sub-clause (4) by inserting the following new paragraph immediately after paragraph (c)-

“(ca) cash deposits”;

*(Question of the amendment proposed)*

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

*(Clause 76 as amended agreed to)*

*Clause 77*

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 77 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “permitting or assisting” appearing in paragraph (c);

(b) by deleting sub-clause (3) and inserting the following new sub-clause-

“(3) Nothing in this section shall be construed as limiting an operator from offering free bets and bonus bets in the ordinary course of business”.

*(Question of the amendment proposed)*

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

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

*(Clause 77 as amended agreed to)*

*(Clause 78 agreed to)*

*Clause 79*

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 79 of the Bill be amended-

(a) by deleting sub-clause (1) and inserting the following new sub-clause-

“(1) A licensee shall deposit all the player’s money in a bank account or mobile money or, upon a player’s request, make a cash payment to the player: Provided that a licensee shall maintain a register of all monies paid out to a Punter”.

(b) by deleting sub-clause (3) and inserting the following new sub-clause-

“(3) A licensee holding a player’s bank account shall—

(a) not enforce or execute, any charge, write-off, set-off or other claim against a player’s account;

(b) not combine the account with any other account in respect of any debt owed to it by a player; or

(c) credit any interest payable on a player's account, only to the player's account".

*(Question of the amendment proposed)*

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

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

*(Clause 79 as amended agreed to)*

#### Clause 80

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 80 of the Bill be amended-

(a) by deleting sub-clause (2) and inserting the following new sub-clause-  
“(2) Where the whereabouts of a player remain unknown for a period of five years, the monies standing to the credit of the player's account shall be presumed abandoned and the licensee shall remit such monies to the Unclaimed Financial Assets Authority”.

(b) by deleting sub-clause (3) and inserting the following new sub-clause-  
“(3) A licensee shall maintain a register of all monies remitted under subsection (2).

*(Question of the amendment proposed)*

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

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

*(Clause 80 as amended agreed to)*

#### Clause 81

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 81 of the Bill be amended in paragraph (c) by deleting the words “collector of taxes” and substituting therefor the word “Collector”;

*(Question of the amendment proposed)*



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

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

*(Clause 81 as amended agreed to)*

*Clause 82*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 82 of the Bill be amended in sub-clause (1) by deleting paragraph (d) and inserting the following new paragraph-  
“(d) meets the requirements prescribed by the Authority in regulations”.

*(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 inserted  
be inserted, put and agreed to)*

*(Clause 82 as amended agreed to)*

*Clause 83*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 83 of the Bill be amended by deleting the word “Committee” and substituting therefor the word “Tribunal”.

*(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 83 as amended agreed to)*

*(Clauses 84 and 85 agreed to)*

*Clause 86*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 86 of the Bill be amended by deleting sub-clause (2) and inserting the following new sub-clauses-

“(2) A person commits an offence if the person—

(a) uses or permits the use of an amusement machine in respect of which a licence has not been issued under subsection (1); or

(b) contravenes or allows the contravention of any condition provided for or imposed by the county government.

“(2A) A person who commits an offence under subsection (2) shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both”.

*(Question of the amendment proposed)*

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

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

*(Clause 86 as amended agreed to)*

*Clause 87*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 87 of the Bill be amended—

(a) in sub-clause (3) by deleting the words “as may be imposed” and substituting therefor the words “as shall be prescribed in regulations”;

(b) by deleting sub-clause (4).

*(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 87 as amended agreed to)*

## Clause 88

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 88 and subsisting therefor the following new clause—

Authorisation of media  
promotions with prizes

88. (1) A person shall not, without a license issued by the Authority, conduct a media promotion with prizes.

(2) A person who undertakes media promotion in either electronic or print media with prizes licenced under this section shall be subject to the conditions prescribed by the Authority in regulations.

(3) The conditions referred to in subsection (2) shall include—

- (a) eligibility of participants;
- (b) costs of participation;
- (c) dates of the promotion;
- (d) prizes to be won;
- (e) verification of winnings by the Authority;
- (f) process of claiming prizes won; and
- (g) publication of prize awards.

*(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 88 as amended agreed to)*

*(Clause 89 agreed to)*

## Clause 90

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 90 and subsisting therefor the following new clause—

Advertisement of  
gambling

90. (1) A person shall not, without the approval of the Authority, promote the advertisement of a gambling activity on electronic medium or any other form of communication by—

- (a) holding himself out by advertisement, promotion, notice or public placard with the aim of enticing members of the public to participate in gambling;
- (b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place;

- (c) printing or publishing, or causing to be printed or published, any advertisement or notice;
  - (d) using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling; or
  - (e) advertising gambling by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.
- (2) A gambling advertisement shall—
- (a) indicate the addictive nature of gambling;
  - (b) notify players to play responsibly;
  - (c) prohibit children from playing;
  - (d) not use false, misleading or deceptive message likely to create an erroneous positive impression of gambling;
  - (e) not be featured or broadcasted on television or radio between six o'clock in the morning and ten o'clock in the evening unless during a live sporting event;
  - (f) not be erected on an advertisement billboard of close proximity to a learning institution; and
  - (g) dedicate twenty per cent of aired advertisement towards promotion of responsible gambling.
- (3) The Cabinet Secretary may, in consultation with the Authority, make regulations providing for—
- (a) the circumstances under which the national lottery, and licensed gambling activities may be advertised;
  - (b) information that is to appear in an advertisement;
  - (c) the places where, circumstances or manner in which signs relating to a national lottery or gambling activity may be displayed;
  - (d) conditions requiring advertisements about the gambling service authorised by the licence including—
    - (i) publication only to certain classes of persons;
    - (ii) the content which may require specified words to be included in the advertisement;
    - (iii) content not to be included in an advertisement;
    - (iv) content not to be published in certain types of publications or media; and
    - (v) requirement for the content of the advertisement to be approved by the Authority.
- (4) A person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding ten years, or to both.

*(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 90 as amended agreed to)*

*Clause 91*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 91 and inserting the following new clause—

The Gambling Appeals  
Tribunal

91. (1) There is established a body to be known as the Gambling Appeals Tribunal.
- (2) The Tribunal shall consist of—
  - (a) a Chairperson appointed by the President from among persons qualified to be judges of the High Court;
  - (b) two persons appointed by the Judicial Service Commission who shall be advocates of the High Court; and
  - (c) four persons appointed by the Cabinet Secretary from among persons who possess knowledge and experience in matters relating to gambling, business administration, risk management or law enforcement studies.
- (3) The Chairperson and members of the Tribunal shall be appointed by the Cabinet Secretary by notice in the Gazette.
- (4) A person shall be eligible for appointment as a member of the Tribunal if that person—
  - (a) meets the requirements of Chapter Six of the Constitution;
  - (b) has a relevant bachelors' degree from a university recognized in Kenya;
  - (c) has at least ten years' experience in a relevant sector;
  - (d) is not a public officer;
  - (e) has not at any time within the preceding five years been an employee of the Authority or the National Lottery Board;
  - (f) has not been convicted of an offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
  - (g) has not been adjudged bankrupt by a court of competent jurisdiction; and
  - (h) has not in the last twelve months immediately preceding the appointment, had direct or indirect personal or commercial interest in the sector regulated under this Act.
- (5) The Chairperson or a member of the Tribunal shall hold office—
  - (a) in case of the Chairperson, for a term not exceeding three years and shall not be eligible for re-appointment; and
  - (b) in case of a member, for a term not exceeding three years and shall be eligible for re-appointment for one further term of three years based on satisfactory performance.
- (6) The members of the Tribunal, other than the Chairperson, shall serve on a part-time basis.
- (7) The Chairperson or member of the Tribunal shall cease to hold office if that person—

- (a) resigns from office by notice in writing addressed to—
  - (i) the President, in the case of the Chairperson; or
  - (ii) the Cabinet Secretary, in the case of a member;
- (b) becomes a public servant or an employee of the Authority or the National Lottery Board;
- (c) is absent from three consecutive meetings of the Tribunal without the permission of the Chairperson;
- (d) is adjudged bankrupt by a court of competent jurisdiction;
- (e) is convicted of a criminal offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (f) is unable to perform the functions of the office by reason of physical or mental infirmity; or
- (g) is otherwise unable or unfit to discharge the functions of the office.

(8) A person appointed as the Chairperson or a member of the Tribunal shall, before assuming office, take or subscribe to the oath or affirmation before the Chief Registrar of the Judiciary.

(9) The functions of the Tribunal shall be to hear and determine appeals from, the national or county governments,—

- (a) against any decision of the Authority or the National Lottery Board;
- (b) regarding complaints arising out of the outcome of a gambling transaction;
- (c) regarding complaints arising out of the functionality of gambling machines and equipment; and
- (d) regarding any other matter as may be prescribed under this Act or referred to it by the Board.

(10) Save as expressly provided by this Act, the Tribunal shall regulate its own procedure.

(11) The Judicial Service Commission shall provide secretariat services to the Tribunal and shall assign or appoint such secretary and other support staff as may be necessary for the Tribunal to effectively perform its functions.

(12) The Cabinet Secretary shall prescribe, in regulations, the procedures for the operationalization of the Tribunal.

*(Question of the amendment proposed)*

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

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

*(Clause 91 as amended agreed to)*

Clause 92

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

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**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 92 and subsisting therefor the following new clause—

Remuneration of  
members of the Tribunal 92. The Chairperson and the members of the Tribunal shall be paid such remuneration and allowance as shall be determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

*(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 92 as amended agreed to)*

*(Clause 93 agreed to)*

Clause 94

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 94 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “Committee” and substituting therefor the word “Tribunal”;

(b) in sub-clause (2) —

(i) by deleting the word “Committee” appearing in paragraph (a) and substituting therefor the word “Tribunal”;

(ii) by deleting the word “Committee” appearing in paragraph (c) and substituting therefor the word “Tribunal”; and

(c) in sub-clause (5) by deleting the word “Committee” and substituting therefor the word “Tribunal”.

*(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 94 as amended agreed to)*

Clause 95

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 95 of the Bill be amended in the opening sentence by inserting the words “who, being the” immediately after the words “A person”.

*(Question of the amendment proposed)*

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

*(Clause 95 as amended agreed to)*

*(Clauses 96 and 97 agreed to)*

*Clause 98*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 98 of the Bill be amended by inserting the words “or to both” immediately after the words “term not exceeding one year”.

*(Question of the amendment proposed)*

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

*(Clause 98 as amended agreed to)*

*(Clauses 99, 100, 101, 102, 103  
104 and 105 agreed to)*

*Clause 106*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 106 and inserting the following new clause—

Promotion of  
unauthorized pool betting

**106.** (1) A person shall not—

(a) promote a pool betting scheme within Kenya in contravention of the terms of a licence issued under this Act; or

(b) promote, receive or negotiate bets on behalf of a promoter of an unauthorized pool betting scheme.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.



*(Question of the amendment proposed)*

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

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

*(Clause 106 as amended agreed to)*

*(Clauses 107, 108, 109, 110 and 111 agreed to)*

#### *Clause 112*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 112 of the Bill be amended in the closing sentence by deleting the words ‘be liable’ appearing immediately after the words “shall be liable upon conviction”.

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

*(Clause 112 as amended agreed to)*

*(Clauses 113 and 114 agreed to)*

#### *Clause 115*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 115 of the Bill be amended in sub-clause (1) by deleting the word “may” and substituting therefor the word “shall”.

*(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 115 as amended agreed to)*

*(Clauses 116 and 117 agreed to)*

#### *Clause 118*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 118 of the Bill be amended—

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

(1A) A person who enters an agreement under subsection (1) shall notify the Authority of the agreement.

(1B) The Authority shall maintain a register of all notifications made under subsection (1A), and shall notify all licensees of the self-exclusion agreement.”

(b) in sub-clause (2)—

(i) by deleting the word “or” appearing in paragraph (a);

(ii) in paragraph (e) by inserting the words “the licensee’s” immediately after the words “gain access to”;

(c) in sub-clause (3) by deleting the words “shall be liable to pay an administrative fine as may be prescribed by the Authority” and substituting therefor the words “commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both”;

(d) by inserting the following new sub-clause immediately after sub-clause (3)—

“(3) Despite the provisions of this section, the Cabinet Secretary shall prescribe regulations providing for the manner in which an affected person may petition the Authority for the application of the self-exclusion provisions on a vulnerable gambler.”

*(Question of the amendment proposed)*

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

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

*(Clause 118 as amended agreed to)*

*(Clauses 119, 120 and 121 agreed to)*

*Clause 122*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 122 of the Bill be amended—

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

(b) in sub-clause (2) by deleting the word “foregoing” appearing in the opening sentence and substituting therefor the words “generality of subsection (1);”

- (c) by deleting the expression “(2) For purposes of Article 94(6) of the Constitution—” and substituting therefor the expression “(3) For purposes of Article 94(6) of the Constitution.”

*(Question of the amendment proposed)*

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

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

*(Clause 122 as amended agreed to)*

#### Clause 123

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 123 of the Bill be amended by deleting the word “Gambling” and substituting therefor the word “Gaming.”

*(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 123 as amended agreed to)*

#### Clause 124

*(Hon. Kuria Kimani stood in his place)*

**The Temporary Chairlady** (Hon. Martha Wangari): Hold on, Hon. Chairman. Hon. Kimani Kuria, I note that you have a proposed amendment. However, we will prosecute the amendment by the Hon. Chairman first and then we will come to you.

**Hon. Kuria Kimani** (Molo, UDA): Very well.

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 124 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “at;”

(b) in sub-clause (2) by deleting the words “Government on behalf of the;”

(c) in sub-clause (3) by inserting the words “for the unexpired period of their term “immediately after the words “be deemed to be a member of the Board;”

(d) by deleting sub-clause (4) and inserting the following new sub-clause-

“(4) A person who was, immediately before the commencement of this Act, an employee of the former Board shall, upon the commencement of this Act, be deemed to be an employee of the Authority, subject to subsection (5).”

(e) in sub-clause (5)—

(i) by deleting the expression “(2)” and substituting therefor the expression “(4)”;

(ii) by deleting the words “Government who were serving at the.”

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman, because the Clause has a further amendment, kindly explain the justification.

**Hon. Daniel Wanyama** (Webuye West, UDA): The amendment seeks to correct grammatical errors. It also provides that members of the former Board shall continue to serve as members of the Board of the Authority for the unexpired period of their term to ensure smooth transition. It also conforms the Bill to the House drafting style and provides correct referencing.

*(Question of the amendment proposed)*

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

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

**The Temporary Chairlady** (Hon. Martha Wangari): Before we put the global Question, the Chairman of the Departmental Committee on Finance and National Planning has a further amendment.

Kindly prosecute it.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 124 of the Bill be amended by inserting the following new subsection immediately after sub-section 5-

(6) Without prejudice to section 123, the provisions of sections 29A, 44A, 55A and 59B of the repealed Act shall continue to be in force until new provisions are enacted.

This particular section repeals the whole Betting, Lotteries and Gaming Act. This amendment provides a transitional clause, so that Sections 29A, 44A, 55A and 59B can continue to be in force, so that we do not repeal the whole Act.

I beg to move, Hon. Temporary Chairlady.

*(Question of the further amendment proposed)*

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

*(Clause 124 as amended agreed to)*

*(Clause 125 agreed to)*

Clause 126

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

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**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 126 of the Bill be amended by deleting paragraph (a).

*(Question of the amendment proposed)*

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

*(Clause 126 as amended agreed to)*

#### Clause 51

**The Temporary Chairlady** (Hon. Martha Wangari): Before we go to the new clauses, we will prosecute Clause 51 again. It is a deletion. I would like the Mover to be clear and on record that it is a deletion.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 51.

**The Temporary Chairlady** (Hon. Martha Wangari): Kindly confirm from the Order Paper whether it is a deletion.

**Hon. Daniel Wanyama** (Webuye West, UDA): It is a deletion.

**The Temporary Chairlady** (Hon. Martha Wangari): That is good.

*(Question of the amendment proposed)*

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

*(Clause 51 deleted)*

#### New Clause 16A

THAT, the Bill be amended by inserting the following new clause immediately after Clause 16—

Removal of the  
Director-General.

16A. (1) The Director-General may be removed from office by the Board in accordance with the terms and conditions of service for—

- (a) gross misconduct or misbehaviour;
- (b) bankruptcy;
- (c) incompetence or neglect of duty;
- (d) violation of the Constitution or any other written law; or
- (e) inability to perform the functions of office by reason of physical or mental incapacity.

(2) Before the Director General is removed under subsection (1), the Director-General shall be given—

- (a) sufficient notice of the allegations made against him or her; and
- (b) an opportunity to present his or her defence against the allegations.

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

**The Temporary Chairlady** (Hon. Martha Wangari): Mover, move Second Reading.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move that the new Clause 16A be now read a Second Time.

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

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

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

*(First Schedule agreed to)*

*Second Schedule*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover. This one has a proposed amendment.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting the Second Schedule.

*(Question of the amendment proposed)*

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

*(Second Schedule deleted)*

*(Third and Fourth Schedules agreed to)*

*Clause 2*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended—

(a) in the definition of “Authority” by inserting the words “of Kenya” immediately after the words “Regulatory Authority”;

(b) by deleting the definition of “betting premises”;

(c) by deleting the definition of “Committee”;

(d) in the definition of “lottery” by deleting the words “or otherwise howsoever”;

(e) by deleting the definition of “manufacture”;

(f) by deleting the definition of “online gambling”;

(g) by deleting the definition of “player”;

- (h) by deleting the definition of “pool betting;
- (i) by deleting the definition of “winning;
- (j) by inserting the following new definitions in their proper alphabetic sequence—

“beneficial owner” has the meaning assigned to it in the Companies Act;

“betting premises” means premises used for the purposes of betting to which the public has access and which are kept or used, on one or more occasions, for the purpose of—

(a) bets being made therein between persons resorting to the premises and the owner, occupier or keeper thereof, or any person using the premises, or any person procured or employed by or acting for or on behalf of the owner, occupier, keeper or person using the premises, or of any person having the care or management or in any manner conducting the business thereof; or

(b) any money or valuable thing being received by or on behalf of the owner, occupier, keeper or person aforesaid as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give, or for securing the paying or giving by some other person of, any money or valuable thing on any horse race, or other race, fight, game, sport, lottery or exercise, or any other event or contingency;

“manufacture” means to produce, import, sell, lease, make available, distribute, maintain or repair a gambling device and may include—

(a) to supply;

(b) to perform maintenance of gambling equipment; or

(c) to provide gambling services;

“online bookmaker” means a person who carries on any form of betting by means of remote communications, including virtual games, virtual sports as well as other forms of gambling;

“online gambling” means any form of gambling in which persons participate by the use of remote communication and on the internet;

“pool betting” means the making of bets, other than bets made by means of totalisator, whether the bets are made on the system known as a fixed odds betting or otherwise, by a number of persons on terms that the winnings of such of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons;

“punter” means a person who is in possession of a valid ticket or other kind of valid receipt issued by a licensee relating to gambling;

“reporting institution” has the meaning assigned to it in the Proceeds of Crime and Anti-Money Laundering Act;

“Tribunal” means the Gambling Appeals Tribunal established in section 91;”

*(Question of the amendment proposed)*

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

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

*(Clause 2 as amended agreed to)*

#### LONG TITLE

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. Daniel Wanyama** (Webuye West, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Long Title be amended by inserting the words, “of Kenya” immediately after the words “Gambling Regulatory Authority”.

*(Question of the amendment proposed)*

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

*(Long Title as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Members, we have concluded consideration of the Bill.

Mover, please move reporting.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairlady, I beg to move that the House reports its consideration of the Gambling Control Bill (National Assembly Bill No.70 of 2023) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

#### IN THE HOUSE

*[The Temporary Speaker (Hon. (Dr) Rachael Nyamai) in the Chair]*

#### MOTION

##### CONSIDERATION OF REPORT ON THE GAMBLING CONTROL BILL

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Temporary Chairlady, report to the House.

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**Hon. Martha Wangari** (Gilgil, UDA): Hon. Temporary Speaker, I beg to report that a Committee of the whole House has considered the Gambling Control Bill (National Assembly Bill No.70 of 2023) and approved the same with amendments.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Mover of the Bill.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said Report.

I request Hon. Caroli Omondi to second the Motion for agreement with the Report of the Committee of the whole House.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Hon. Caroli Omondi.

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Temporary Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

## BILLS

### *Third Reading*

#### THE GAMBLING CONTROL BILL (National Assembly Bill No.70 of 2023)

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the Gambling Control Bill (National Assembly Bill No.70 of 2023) be now read a Third Time.

I request Hon. Catherine Omanyo to second.

**Hon. Catherine Omanyo** (Busia County, ODM): Hon. Temporary Speaker, I second.

*(Question proposed)*

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Leader of the Majority Party, please proceed.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I seek your indulgence under Standing Order 53 that for obvious reasons, we defer the last bit of the Third Reading to the afternoon sitting.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Your request is acceded to.

*(Putting of the Question deferred)*

### *Second Reading*

#### THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No.2) BILL (National Assembly Bill No.68 of 2023)

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.68 of 2023) be now read a Second Time.

The Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.68 of 2023) seeks to amend various statutes like the Oaths and Statutory Declarations Act, the Advocates Act, the Notaries Public Act, the Civil Procedure Act, the Public Holidays Act,

the Trustees Perpetual Succession Act, the Industrial Training Act, the Traffic Act, the Sexual Offences Act, the Employment Act, the Veterinary Surgeons and Veterinary Para-Professionals Act, parts of the Public Finance Management Act of 2012, the Universities Act, the Office of the Attorney-General Act of 2023, the Civil Aviation Act, the Value Added Tax Act and the Privatisation Act.

As is the case with other such Statute Law (Miscellaneous Amendment) Bills, this Bill seeks to amend various proposals in all the Acts that I have mentioned. Most of them are not substantive amendments, therefore, they qualify to be included in such a Miscellaneous Amendments Bill.

Hon. Temporary Speaker, part of the amendments to the Public Holidays Act seeks to delete the provision of Utamaduni Day as a public holiday. As you will remember, this holiday was once called Moi Day. Later, it was renamed Huduma Day and eventually, Utamaduni Day. This Bill seeks to amend the Public Holidays Act to delete the provision of having 10<sup>th</sup> October as a public holiday. However, there are further proposals.

As you will remember, recently, the Ministry of Interior and Coordination of National Government gazetted another public holiday and Kenyans utilised it to plant trees. Therefore, during the Committee of the whole House, we seek to further amend the Act so that instead of deleting this holiday, we rename it. We can maintain the name Utamaduni and have the day designated to planting of trees so that Kenyans can have a day set aside for planting trees. When we get to the Committee of the whole House, I will propose amendments to maintain the day as a public holiday but have it themed around climate change, its mitigation and environmental protection. Kenyans will have opportunity to use this day like the holiday we had last month to plant trees.

This Bill also seeks to amend the Oaths and Statutory Declaration Act, to provide that an advocate appointed as a Commissioner of Oaths and assigned the role of Chief Registrar of the Judiciary, the Registrar or Deputy Registrar of a superior court or subordinate court, to administer an oath, affirmation or take an affidavit of Statutory Declaration under the Act. Further, the Bill also proposes to amend the Advocates Act (Cap 16) by providing that the Registrar responsible for keeping the roll of advocates shall be the Chief Registrar of the Judiciary.

The Bill further proposes to amend the Act to provide that the Council of the Law Society Kenya (LSK) may with the approval of the Chief Justice make rules for admission of advocates. As Members know, LSK is a professional organisation of lawyers. It has a critical role to play in determining how lawyers are admitted to join the roll of advocates. Therefore, this Bill is giving the Council powers, that with the approval of the Chief Justice, they may make rules for the admission of advocates. The Bill seeks to amend the Civil Procedures Act, to provide that the members nominated by LSK and appointed by the Chief Justice shall be three advocates and not eight as currently nominated from each of the LSK branches.

The Bill also seeks to amend the Industrial Training Act to provide the date for remittance of the training levy. It shall be the 9<sup>th</sup> day of the month and not the 15<sup>th</sup> day. This is in order to harmonise with the period within which Pay-As-You-Earn (PAYE) is remitted to the Kenya Revenue Authority (KRA). Principally, the current Industrial Training Act gives the last day of payment as the 15<sup>th</sup> day of the month. Many corporate organisations including public entities that collect the Industrial Training Levy do not remit the money on time.

In many circumstances, people pay PAYE, National Social Security Fund (NSSF), National Health Insurance Fund (NHIF) but this is pushed to mid-month. So, other pressure weighs on businesses and people tend to delay making payments. We want to align the payment of the Industrial Training Levy to that of PAYE because this money is deducted from employees. The moment you deduct their taxes and levy, as you remit PAYE to KRA, you also remit this money to the National Industrial Training Authority (NITA). This institute plays a

critical role in training our workforce and ensuring that we have a well-trained labour force that can serve the people of Kenya.

The Bill proposes to amend the Sexual Offences Act, 2006 to provide that a register of convicted sexual offenders shall be kept and maintained by the Chief Registrar of the Judiciary and not the Registrar of the High Court. After the passage of the Sexual Offences Act, there was a requirement to have a register of all sexual offenders convicted. Previously, it was kept by the Registrar of the High Court. Now it is being elevated to be kept by the Chief Registrar of the Judiciary.

The reason being, there are people convicted by a lower court then they appeal all the way to the Supreme Court or Court of Appeal. Their record remains as convicts of sexual offenders while at some point, the conviction was discharged by the Court of Appeal, High Court or Supreme Court. With this register being kept at the apex court by the Chief Registrar of the Judiciary, there will be a clean record of convicted sexual offenders. We will not have a situation where someone has appealed, was released and his records continues to indicate he is still a sexual offender.

The Bill proposes to amend the Universities Act of 2012 to provide for the declaration of technical universities under Section 25(1) of the Act, in respect to public institutions that were national polytechnics. It also proposes to amend Section 56(1). Before I go to that, there are former national polytechnics which have been converted to public universities. This amendment relates to such universities like the Technical University of Kenya (TUK) which was Kenya Polytechnic here in Nairobi. Also, the Technical University of Mombasa (TUM) which was Mombasa Polytechnic. So, we are amending the Universities Act for the declaration of these technical universities under Section 25(1) in respect of public institutions such as TUK and TUM, now that they are listed as technical universities.

There is also a proposal to amend Section 56(1) to provide that the placement board shall be responsible of placing all students rather than only government sponsored students in universities and colleges. This proposal was published in the Executive Bill. I will be moving an amendment to it because the Kenya Universities and Colleges Central Placement Services (KUCCPS) is charged with the responsibility of placing students in public universities. Therefore, there is no justification to have them placing students in private universities because they have their own ways of enlisting students. So, they do not need KUCCPS to place students for them.

Since we have less than a minute to go, I will end there. I ask the Deputy Leader of the Majority Party to second when the House next sits since it is already 1.00 p.m.

Hon. Temporary Speaker, I beg to move.

**The Temporary Speaker** (Hon. (Dr) Rachael Nyamai): Is he going ahead to second the Bill? Time is up, he can second next time. The Mover has already moved. So, let him second later.

## ADJOURNMENT

Hon. Members, the time being 1.00 p.m., the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.

*Published by*  
Clerk of the National Assembly  
Parliament Buildings  
Nairobi