

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 13th February, 2019

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Speaker (Hon. Lusaka) in the Chair]

PRAYER

PETITION

AGREEMENT BETWEEN ISIOLO COUNTY GOVERNMENT AND LIVING GOODS LIMITED

Sen. Dullo: On a point of order, Mr. Speaker, Sir. During the last Session the Chair ruled that the report of the Petition on Isiolo County should be given today. I would like to know what the status is from the Committee.

The Speaker (Hon. Lusaka): The Chairperson of the Committee on Health is not here. We will give you a communication once he is in the House.

What is your point of order, Sen. (Eng.) Maina?

Sen. (Eng.) Maina: On a point of order, Mr. Speaker, Sir. I wish to add to the point raised by Sen. Dullo. We know the situation we are in as a country with regard to the nurses' strike. Sen. Dullo's Petition touched on some of the issues that are happening. I, therefore, request that in your ruling, please, consider this matter with the seriousness that it is due.

The Speaker (Hon. Lusaka): The Vice Chairperson of the Committee on Health is here. He can tell us the status.

Sen. (Dr.) Ali: Mr. Speaker, Sir, the issue has not been finalized because the Cabinet Secretary was made aware of the issue and a letter was written to the Senator here. As a Committee we decided to wait for some time and consult both sides before we give a response on the Petition. There are issues that the governor was told to respond to. We, therefore, have to see the Cabinet Secretary in charge of the National Treasury and know what we can do about it.

The Speaker (Hon. Lusaka): When can you give us the response?

What is it, Sen. Dullo?

Sen. Dullo: On a point of order, Mr. Speaker, Sir. I think that this Committee is playing around. During the last Session this matter was repeated severally and they were given the last chance. The matter at hand is very serious. I do not see why they are waiting for the National Treasury to give their position, yet these are two different arms

of the Government. The position of the Cabinet Secretary, National Treasury is very clear and I had posted it on the Senators' *WhatsApp* group. Two weeks is too long. Let the Committee on Health give us the report by next week on Tuesday.

Sen. Wambua: Mr. Speaker, Sir, I also rise on a point of order alongside what Sen. Dullo has just asked. By the time we went on recess in December, the Chair ruled that a petition that I had brought on behalf of the business people from Kitui County was supposed to be handled and a report brought today. I would like to know the status of that Petition.

The Speaker (Hon. Lusaka): Hon. Senators, I ask all the Chairpersons to expedite the responses to the petitions, so that we can make progress. However, let us get a report on the Petition from the Committee on Health by Tuesday.

Next Order.

PAPERS LAID

Sen. Dullo: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, 13th February, 2019.

THE SENATE CALENDAR FOR THE 2019 SESSION

The Senate Calendar (Regular Sessions) for the Year 2019 (Third Session, February to December, 2019).

REPORTS ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTY FUNDS/BOARDS

Report of the Auditor-General on the Financial Statements of the County Assembly of Siaya Car Loan and Mortgage Fund for the Year ended 30 June, 2016.

Report of the Auditor-General on the Financial Statements of Makueni County Sand Conservation and Utilization Authority for the Year ended 30 June, 2016.

Report of the Auditor-General on the Financial Statements of Makueni County Sand Conservation and Utilization Authority for the Year ended 30 June, 2017.

Report of the Auditor-General on the Financial Statements of Makueni County Emergency Fund for the Year ended 30 June, 2017.

Report of the Auditor-General on the Financial Statements of the Makueni County Youth, Men, Women, Persons with Disabilities and Table- Banking Groups Empowerment Fund for the Year ended 30 June, 2017.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2005.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2006.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2007.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2008.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2009.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2010.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2011.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2012.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2013.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2014.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2015.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2016.

Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2017.

(Sen. Dullo laid the documents on the Table)

NOTICES OF MOTIONS

APPROVAL OF SENATORS TO SERVE IN SESSIONAL COMMITTEES

Sen. Dullo: Mr. Speaker, Sir, thank you very much for that opportunity. I beg to give notice of the following Motion:-

THAT, pursuant to Standing Orders No. 189 (1) and 219, the Senate approves the following Senators, nominated to serve in Sessional Committees of the Senate as follows-

A. COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS

- (1) Sen. Fatuma Dullo, CBS, MP;
- (2) Sen. Kimani Wamatangi, MP;
- (3) Sen. Mithika Linturi, MP;
- (4) Sen. Kibiru Charles Reubenson, MP;
- (5) Sen. Omanga Millicent, MP;
- (6) Sen. Mohamed Faki, MP;
- (7) Sen. Ledama Olekina, MP;
- (8) Sen. Moses Kajwang', MP; and,
- (9) Sen. (Prof.) Sam Ongeru, EGH, MP.

B. COMMITTEE ON DELEGATED LEGISLATION

- (1) Sen. Kang'ata Irungu, MP;

- (2) Sen. Prengei Victor, MP;
- (3) Sen. (CPA) Haji Farhiya Ali, MP;
- (4) Sen. Poghisio Samuel Losuron, EGH, MP;
- (5) Sen. Omanga Millicent, MP;
- (6) Sen. Judith Pareno, MP;
- (7) Sen. Mutinda Kabaka, MP;
- (8) Sen. Okong’o Omogeni, MP; and
- (9) Sen. Mohamed Faki, MP.

I beg to give notice of the following Motion:

APPROVAL OF THE SENATE CALENDAR
FOR THE 2019 SESSION

THAT, pursuant to Standing Order 29 (1), this House approves the Senate Calendar (Regular Sessions) for the year 2019 (Third Session February to December, 2019), laid on the Table of the House today, Wednesday, 13th February, 2019.

I thank you.

The Speaker (Hon. Lusaka): The next Order.

STATEMENTS

TERRORIST ATTACK AT 14 RIVERSIDE DRIVE:
DUSIT D2 COMPLEX

The Speaker (Hon. Lusaka): Sen. George Khaniri.

Sen. Khaniri: Thank you, Mr. Speaker, Sir, for this opportunity. Pursuant to Standing Order No. 47 (1). I rise to make a Statement on a matter of national concern, which is the recent terrorist attack at the 14 Riverside Dusit Complex building on Tuesday, 15th January, 2019.

Before I make my Statement, I would want to seek your indulgence and to ask you kindly to lead the House in observing a one-minute silence in honour of those who lost their lives in this particular attack.

The Speaker (Hon. Lusaka): Senators, may you rise and observe one minute of silence in honour of those who lost their lives.

*(Hon. Senators stood up in their places and
observed a minute silence)*

Sen. Khaniri: Thank you for that, Mr. Speaker, Sir.

First, I wish to register my condolences to the families and friends of those who lost their loved ones in this heinous act. I also register my sympathy to those who were injured during this attack. I believe terrorism has no place in the world of today and as such, this only makes us stronger. This is not the first attack; from the Westgate Mall to Mpeketoni, to Garissa University, to El Ade, even with all these attacks, we remain unbowed.

I commend the security forces for their quick response that enabled quick evacuation and saving of so many lives. There were also several civilian licensed gun-holders who promptly responded to the call of duty without fear and placed their lives in harm's way to save lives. The police leadership and command deserve a pat on the back because throughout the more than 12 hours of the attack, the rescue mission was well coordinated and consistently gave clear and uniform communication. This does not only give hope to all the affected but also calmed the country and exhibited their prowess and organization.

The estimates that over 700 people were safely evacuated from the building are a statement of the lessons learnt by our security forces from previous attacks. We have so many heroes and heroines from this attack that should be recognized by the state.

As is always the case, the Kenya Red Cross Society of responded to the attack and organized not only first-aid and hospital transfer, but also counseling desks for both victims and their families. Other ambulance services also responded and it is important we recognize them. The injured were taken to various hospitals where they were attended to, and in turn, this reduced the number of would-be fatalities.

Images of long queues of people waiting to donate blood at various blood donation centres, people serving meals to the security forces and affected families free of charge during the police operation and thousands of goodwill messages and prayers from Kenyans from all walks of life regardless of religion, race, tribe or even political affiliation, were truly refreshing and a source of pride and comfort to the entire nation.

The leaders of this country also portrayed true patriotism as they held press conferences just to condole the affected and their families and also reminded Kenyans that in this war on terror, we must be united in order to win. The local media performed exceptionally well in the dissemination of information. Such courage is usually a very tough balancing act because of the dangers involved. The media should not give out information that can be used by terrorists and at the same time provide real time, true and concise information to the public, which is important as it enables them decipher the situation and reduce the extent of propaganda that the terrorist groups might propagate to instill fear.

The current debate on the issue of providing firearms to security guards needs to be thought through carefully. We might end up creating an even bigger problem. While allowing security guards to have firearms has worked in some jurisdictions, it may not be applicable for us and it might be exploited and cause chaos. Most of the security guards are poorly paid and work in extremely stressful situations. Imagine a poor hungry and angry armed security guard, this can be very dangerous.

Mr. Speaker, Sir, I believe as a country that it is time, we recognized terrorism as a major and ever-present threat to our nation. We have several things that we need to correct as a country, which include-

- (1) The development of a compensation structure for victims of terror attacks. For instance, up to date, victims of previous attacks have not been paid save for the assistance offered during burial.

- (2) Increase our border patrol and surveillance.

- (3) Demystify the notion that Islam is the same as terrorism and invite Muslims and Somali leaders to help in containing messages of extremism and radicalization.

(4) We need to ensure that emergency drills are carried out by all institutions, including primary schools, and ensure that buildings have structural preventive mechanisms such as heavy glass doors that automatically resist access. This should not be a case where as a nation; we will have selective amnesia and bury this discussion for now.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Sen. Sakaja Arthur.

Sen. Sakaja: Thank you very much, Mr. Speaker, Sir. First, I want to thank Sen. Khaniri for making this Statement on the 14 Riverside Drive, Dusit2 Complex attack. I would like to join him as well as other colleagues in reiterating our message of condolences to the families of those who lost loved ones in this attack. It was a very difficult moment for all of us as a country and we tell them *pole* once again. The funerals were very emotional. We lost very many young people who were working in IT companies and restaurants and all those establishments at 14 Riverside Dusit D2 Complex.

On top of that, I would like to really congratulate and give gratitude to our security forces for the speedy response and coordination. For the first time, we saw a well-coordinated response in a matter of minutes and various different agencies were on sight together with civilian licensed firearm owners, a group of people who are rarely appreciated over time. They saved many people, more than 700 of families there. I am the former patron of that group called National Gun Owners Association (NGAO-K) and there are so many brave Kenyans who are always fast when such incidences occur. I am glad that we have been able to mainstream them in the regulatory framework that has been developed by the Government in working with the security forces.

This attack affected everybody; people of different religions, tribes and colors. As Sen. Khaniri has said, it flies in the face of those who have been trying to bring sectarian divisions in this country saying that terrorism is about this religion against this other religion or these kind of people against these other kinds of people. Everybody was affected by this specific case and, it has shown the resilience of the Kenyan people in the face of terror, which is a cowardly act.

Kenyans came out in their numbers to donate blood, to give messages of good will and we remain unbowed as a country. The only blot in all of this, in as much as the Kenyan media covered it well, was that some of the international media completely misbehaved when this incident happened. *The New York Times* went ahead to publish photos of victims affected at the site yet in their own editorial policy, if this happened in America, you would never see the body of any dead or injured American. I am very happy that Kenyans on Twitter and online did not spare them for a single minute and demanded an apology; that they cannot treat Kenyans as second-class citizens or members of the family of nations. We deserve our respect as a country and we still want them to give an unconditional apology to the people of Kenya.

Mr. Speaker, Sir, some of the things that can actually assist in dealing with such incidents, when and if they occur, is the implementation of the Bill that we brought into this House together with Sen. Mutula Kilonzo Jnr. on National Disaster Risk Management, which is still lying at the National Assembly. We were asking our colleagues at the National Assembly to fast track the implementation of that Bill, because

it brings a method and a framework to coordinate disaster management between the national Government and county governments.

Finally, Mr. Speaker, Sir, the day before yesterday, I had a chance to visit one of the survivors of this attack; a young man called Mr. Emmanuel Omala. He was shot seven times but no single bullet touched any vital organ in his body. He is a 21 year old delivery boy who got caught up when he had gone to deliver goods at 14 Riverside Drive. Unfortunately – and I am glad that I can ---

(Sen. Sakaja's microphone went off)

Mr. Speaker, Sir, I was just concluding by giving the example of this young man called Mr. Emmanuel Omala, who was shot seven times while lying down. When I visited him the day before yesterday, he was very jovial with an undying spirit and very resilient. I told him that, indeed, God has a plan for his life and that is why he is still alive. The only unfortunate thing is that he had remained in hospital since then. There had been promises to deal with his hospital bill, but he had to get into an arrangement to pay Kshs3,000 a month for over 28 months. That was completely unfair and we have at least made sure that any other victim who had a hospital bill, that it must be sorted out by the Government.

Mr. Speaker, Sir, we will still be receiving a report. The security forces, this time round, were able to consult with us throughout the operation time. While representing the Committee on National Security, Defence and Foreign Relations, I sat at the command centre with the heads of our security forces together with the police, and I was able to see how swift that coordination was done.

May the Almighty Lord rest the souls of those who departed in eternal peace. Thank you.

The Senate Minority Leader (Sen. Orengo): Thank you, Mr. Speaker, Sir. Let me join those who have spoken, particularly Sen. Khaniri, who has made this Statement. This scourge of terrorism has hit Kenya many times. We sometimes forget that the first major terrorist hit happened in 1980, when the Norfolk Hotel was hit hard, and many people died. Since then, I think we have had several major terrorism incidents, particularly in Nairobi, Mombasa, Garissa and most of North Eastern.

Mr. Speaker, Sir, before I come to the Statement itself, I commend Kenya and even the leadership in Kenya because one of the objectives of the merchants of terror is to change the way we live. They want us to live a life whereby we cannot operate as a free nation. Despite these major incidents since 1980, I think Kenyans have strived to live their lives the way they must. This speaks to those who want us to change our way of lives so that we probably become a police State, where every time you are in a public transport or moving from one area to another, you will meet road blocks and all manner of security operations that will make us change our way of life. Despite these heinous acts, the leadership in Kenya generally, even from 1980 to now, have strived to make sure that we live our lives in accordance with the spirit of our law, and in the spirit of what Kenya desires this nation to be.

Mr. Speaker, Sir, my county was hit very badly because five people died as a result of this major incident. In fact, four of them were buried on the same day; and I managed to go to three of the funerals. Some of them were very young people. There was

a lady who was working at the Dusit D2 Hotel; and a very popular young man known as Mr. Radido Cobra, who the people in my county saw as the true spirit of the Kenyan people. This is because at his funeral, nearly everybody from this Republic was in attendance. That community in Ugenya was able to show the love and solidarity of the Kenyan people when we are hit by this type of incident. I, therefore, commend the entire nation, because we came together, grieved together and fought together at this hour of need.

The police and the security forces this time demonstrated exemplary leadership. All we can say is that if there can be improvement in the way they operate, it will be so much the better. However, on the basis of what happened on that particular day, even other nations commended our security forces and Kenyans as a whole.

Mr. Speaker, Sir, we should be alive to the need to plan our cities and the need to have wide avenues and broad streets. This is so that when there is an incident like this, those who want to come to help have room for maneuver. You could see that the firefighting equipment, police and security vehicles and populations of people who wanted to help and who needed to be there, it was very difficult for them to maneuver so that help would be given to those who were injured and those who needed help.

I hope that as we deal with the planning of our cities and towns, we should be conscious that, in the future, when there is need to get into areas to provide help or evacuate people, there will be sufficient space to do so. If you go to most areas in Nairobi and in Eastlands, and so on; an operation like the one which took place at No. 14 Riverside Drive would be very difficult to carry out because you will not be able to take help to those areas.

Therefore, the city planners should keep this in mind so that when we are hit, people can get the help they need. This is a very important thing for us to do as quickly as possible.

Mr. Speaker, Sir, terrorism should not make us profile ourselves. All Kenyans were hit in one way or the other. The exemplification of this was that even our brothers of the Islamic faith were also badly hit on that particular day. Terrorism is terrorism and terrorists are criminals who should be dealt with as such. Therefore, I commend Sen. Khaniri for bringing this matter to the House.

Sen. Farhiya: Thank you, Mr. Speaker, Sir. I also wish to join my colleagues in thanking Sen. Khaniri for bringing this Statement. I also wish to follow suit in condemning the terror attack and send my condolences to all the bereaved families.

As the Senator from Wajir County, we were affected because two gentlemen who were upcoming young professionals and had families who depended on them lost their lives. Therefore, we need to fight terror which is a global phenomenon and not unique to Kenya. There is need for the whole world to come together to ensure that this global menace is dealt with at its source through concerted efforts so that we eradicate it for good.

Due to the same terror, I bring the attention of the House to the fact that three counties of Northern Kenya still lack teachers in their classrooms. This is because teachers were evacuated due to the terror attack that occurred in Wajir County. Teachers were also evacuated from counties that were not affected by terror.

Mr. Speaker, Sir, I also wish to commend Sen. Khaniri for bringing to fore the fact that there is nothing Islamic about terror.

(Loud consultations)

Mr. Speaker, Sir, there is too much noise. I am unable to concentrate.

The Speaker (Hon. Lusaka): Members, let us consult in low tones. Sen. Farhiya, keep it short.

Sen. Farhiya: Mr. Speaker, Sir, as I was saying, I also wish to join my colleagues in appreciating our forces for responding quickly. I ask our security forces at the borders where arms of terror pass through to be more vigilant so that no more Kenyans will lose their lives.

Finally, I also wish to send my condolences to all the bereaved families.

(Loud Consultations)

The Speaker (Hon. Lusaka): Hon. Senators, let us consult in low tones.

Proceed, Sen. Wetangula.

Sen. Wetangula: Thank you, Mr. Speaker, Sir. I congratulate Sen. Khaniri for bringing this Statement. Probably, this should have been our first business yesterday. Terrorism in all its forms and manifestations must be condemned in the strongest terms possible.

I laud the security agencies particularly the General Service Unit (GSU) arm of the police and the Recce Company for the exemplary job that they did in neutralising the terrorist, eliminating them completely and saving Kenyans in their hundreds.

I send my condolences to the families and friends of those who lost their lives. In particular, I know one of my nominated Members of Parliament (MP) who lost two nephews who were young upcoming professionals and all the other Kenyans who were killed by these senseless murderers.

Mr. Speaker, Sir, the philosophy of terrorism is founded on cowardice, hatred and it is calculated to instill fear. That is why they hit soft targets. You will hardly find terrorists confronting a military barrack or a heavily guarded police station. They will always look for soft targets like they did in 14 Riverside Drive. However, more importantly, as Kenyans, we can now see that the terror attacks in this country are changing by the day.

If you look back, there was a terror attack during the World Cup in Kampala by Kenyan youth. Previously, any time there was a terror attack, everybody thought it was somebody of Somali origin. However, in the Kampala attack, it turned out that they were recently converted youth from the Luo, Kikuyu and, above all, Somali communities. It is now an integrated conspiracy of evil doers that are busy attacking and causing mayhem to Kenyans.

Mr. Speaker, Sir, in the recent past, and truth be told, the pretext for this continuing attacks, whether it is Westgate, Garissa, Mpeketoni or 14 Riverside Drive, it is all predicated on the continuing presence of our military in Somalia. I expected and hoped that Sen. Khaniri would touch on this.

Mr. Speaker, Sir, I have continually called for Kenya to reconsider its presence in Somalia and bring back our boys and girls in uniform to protect our border from within our borders so that these terrorists do not have any excuse whatsoever, to continue causing mayhem.

Mr. Speaker, Sir, this is not something that should end up on the Floor. The Committee on National Security, Defence and Foreign Relations vice chaired by Sen. Sakaja of Nairobi County should look at it and catalogue the previous attacks, loss of lives, injured persons and loss of property and tell this House whether any compensation of any nature has been made to victims or not. This is because unlike other forms of injuries that people suffer, terror attacks are directly a responsibility of the Government because it is in charge of security. Therefore, we want to see those who have lost their lives, property or have been maimed, compensated so that they can lead decent lives for the remainder of their lives.

Mr. Speaker, Sir, lastly, we saw from 14 Riverside Drive that when there is a coordinated approach, the security forces will do a good job as compared to the Westgate Mall attack where there was unhealthy competition between the military and the police and they ended up in a very disastrous manner.

Mr. Speaker, Sir, we hope that 14 Riverside Drive is the very last terror attack on our soil and Kenyans will forever be vigilant and protect themselves against such attacks by giving information and the police and security agencies will do their job to protect our motherland.

I send my condolences to my friend the owner of 14 Riverside Drive Complex, Mr. Chirac, whom I saw on the television actively involved in evacuations. There is also a Kenyan private firearm owner of Asian origin who was very active at Westgate Mall and whom we saw at 14 Riverside Drive doing a very good job.

Sen. Dullo: Thank you, Mr. Speaker, Sir. I join my colleagues in congratulating Sen. Khaniri and secondly, pass a message of condolence to the families who lost their dear ones.

Mr. Speaker, Sir, I will be very fast because of the time. I really wanted to talk about the way the issue of radicalisation and terrorism is carried out in this country. I know the Government is doing something about it. However, the concern I wanted to raise is a certain media house that went to Isiolo recently; where they said that Isiolo is the hub for radicalisation in this country. That is wrong because I do not know where they got that particular notion. They must have done proper research.

We must have a way of knowing what areas are affected by radicalisation. Clearly in that news item, they were saying that five mosques were being used for training and recruitment of young boys.

Mr. Speaker, Sir, I condemn the media house that came out with the story because there is nothing like that happening. They should have done proper research in terms of the facts that they have with them.

Secondly, as a country, we need to know what to do with the returnees because most of our boys have come back and they have not been assisted at all in reintegrating into the society. I think we need to do something because when these boys come back, they have a lot of information that is useful to the country in terms of how we should handle issues of radicalisation.

Finally, we need to have a rehabilitation centre, especially for those who have come back, because you will find most of them idle at home. They are so withdrawn and even fear for their lives. It is important for us to have rehabilitation centres so that we can assist those boys re-join and pick up their lives from wherever they had been having a problem.

I thank you.

The Speaker (Hon. Lusaka): Finally, Sen. Malalah.

Sen. Malalah: Thank you, Mr. Speaker, Sir. Before I contribute to this Statement, I wish to acknowledge the presence of the Kakamega County Assembly HANSARD officers led by Ms. Phyllis Ong'ale who have come to benchmark with us here. Unfortunately, they are coming on a day when our equipment is misbehaving. However, I encourage them to benchmark on the positives and ignore the negatives.

Secondly, as I contribute to this Statement by my good Senator, Sen. Khaniri, I first express my heartfelt condolences to the families of the departed souls. I know this is a difficult time for them and pray that God provides shelter for them in this stormy time.

Mr. Speaker, Sir, as we talk about terrorism, we need to look and drill deep to its causes. Most of our young men are being radicalised and we need to evaluate and see what the causes are. I think most of our young people get discouraged and lose hope in life because we have a very stringent system of education. Most of them work hard in school but eventually they do not achieve their aspirations to get to university.

A case in point is where Kakamega, a whole county of 2 million people and almost 200, 000 candidates, had only one A grade. It means that in the year 2018, the county is going to produce only one doctor. Therefore, we need to relook at the system that we use to evaluate success in the education sector. We also have loose transition between high school and university. That is where people take advantage of these young souls and intoxicate them with the spirit of radicalisation.

I would like us to envisage a situation where we have a terrorist attack in Kakamega, Kisii or Bungoma counties. Will we have a rapid response the way we had in 14 Riverside Drive? We need to start building capacity not only in the police force but also in the private security firms so that just in case we have a terrorist attack in Nambacha Market in Navakholo Constituency, we should not wait for 24 hours before the Recce Squad comes. We need to look into these issues so that we build capacity in the private security sector. I believe we are going to curb this menace called terrorism.

Lastly, I celebrate all Kenyans who stood by the families and came hand in hand to help those people who were trapped in that scene. I condemn those leaders who were seen at the scene 'slaying' – wanting to pose as if they were helping the people who were locked up in that hotel. We saw leaders walking with guns. Their main aim was to take photographs so that they count and post on their Instagram and WhatsApp pages---

(Loud consultations)

The Speaker (Hon. Lusaka): Order Members. Let us consult quietly.

Sen. Malalah: Mr. Speaker, Sir, in future, we should handle serious matters in a serious way. This matter of leaders in this country wanting to take advantage of a sorry state like that to pose as if they were helping and yet they were there cosmetically should be condemned in the highest terms possible.

Otherwise, I stand with the families and say sorry to those who lost their beloved ones. It is only God who can comfort them in these hard times.

May God bless them.

The Senate Majority leader (Sen. Murkomen): On a point of order Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order?

The Senate Majority leader (Sen. Murkomen): Mr. Speaker, Sir, now that the Deputy Minority Leader has sat down, the Dusit issue was a very serious one for every leader who was courageous enough to appear at 14 Riverside Drive. This is not the place for us to score political gains. There were leaders who were there because their children were trapped inside. Others such as the Governor for Nairobi City County were there because they govern this City. Others were just there because apart from being leaders, they are owners of private firearms.

Sen. Wetangula: And also out of compassion.

The Senate Majority leader (Sen. Murkomen): And also compassion. In fact, for any leader to dare to be in a place where there is such level of violence, I would never want the Senate to be heard by Kenyans condemning people who were courageous enough to appear in the place. Usually we are condemned for appearing in places of celebration.

However, when our leaders appear in places of danger, putting their lives in danger just to be there with their own people, it should be something that this Senate must recognise and appreciate and not condemn. I did not want that to go on record that Sen. Malalah should not be---. Although I appreciate his Statement under freedom of speech, it should not go out there as the position of the Senate; that this House condemns those who stand with those who were suffering and have problems.

I know that most of the leaders who were there were there for whatever reasons, including the anxiety of having their loved ones or thinking that their loved ones might have been trapped there.

(Sen. Malalah stood in his place)

The Speaker (Hon. Lusaka): Sen. Malalah I thought it was very clear---

Sen. Malalah: Thank you, Mr. Speaker, Sir. I think I want, first of all, to appreciate the Senate Leader of Majority for giving me that direction. However, when a Member contributes on this Floor, that is not the position of the Senate. It is my personal view and I stick to it. It should not be taken as a resolution of the Senate.

I meant that we saw leaders going to parade themselves with ammunition at the scene of crime. Next time we have such an incident, we may have 87 Members of County Assembly (MCAs) with guns outside that scene. We shall not be sorting out the problem at that point.

Mr. Speaker, Sir, it is my wish that we leave such operations to the security forces to handle, so that leaders can come in at the appropriate time.

I thank you.

The Speaker (Hon. Lusaka): Senators, we have run out of time but there was a special request from the Senator of Wajir County, who lost two professionals. I give him three minutes, then we will move to the next Order.

Sen. (Dr.) Ali: Thank you, Sen. Khaniri, for bringing this important Statement. I send my condolences to the families and the people who lost their friends in that attack. As Wajir County, we lost two young upcoming professionals who were at the entry of the hotel. They were at the restaurant and the guy who blew himself killed them.

Terrorism has no colour or religion and it is all over the world. People are hurting especially those from North Eastern Kenya. The number of people who die there do not

get to this level; but one, two, three or even five people who die every day is too much and people have suffered. I want to support the sentiments of Sen. Khaniri that people should not be profiled. The Somali community has suffered as a result of terrorism and we are ready and prepared to support other Kenyans and the Government in whatever endeavours.

Out of the 21 schools that got grade Y in the Kenya Certificate of Secondary Education, 18 of them come from North Eastern. That means that over 2,000 students got grade Y and they do not know where they are going. We also took 3,000 students to colleges but we are now told that they cannot continue. That means that 5,000 young men and women do not know where they are going. The Ministry of Education, the President and the Teachers Service Commission should look into these issues for such people not to join Al-Shabaab and the like for they have nothing at all.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Thank you, Senators. Next Order.

PROCEDURAL MOTIONS

LIMITATION OF DEBATE ON MOTIONS

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir. I beg to move the following Motion:-

THAT, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

Mr. Speaker, Sir, this is a straight forward Motion. It is a Procedural Motion and considering the Business ahead of us, I do not wish to dwell so much in discussing such a straight forward Procedural Motion. I beg to move and I ask the Senate Minority Leader to second.

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, I beg to second. As the Senate Majority Leader has said, this is a Procedural Motion, so not much can be said considering the Business that we have.

However, I would want to add that Committee Chairpersons may have a special interest in certain Motions. Therefore, when looking at the Standing Order in future, we may probably give more time to the Chairpersons of Committees or leadership in ad hoc Committees when there is a Motion that relates to that particular Committee so that time is not just given to the Movers, the Senate Majority Leader and the Senate Minority Leader when discussing Motions.

Otherwise, I beg to second.

(Question proposed)

The Speaker (Hon. Lusaka): This is a Procedural Motion, so I will put the question.

(Question put and agreed to)

LIMITATION OF DEBATE ON ADJOURNMENT MOTION

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir. I beg to move the following Motion:-

THAT, notwithstanding the provisions of Standing Order 106 (4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put;

Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

I beg to move and I ask the Senate Minority Leader to second.

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, I beg to second.

(Question proposed)

The Speaker (Hon. Lusaka): This is a Procedural Motion, so I will put the question.

(Question put and agreed to)

LIMITATION OF DEBATE ON MOTION
ON ADDRESS BY THE PRESIDENT

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir. I beg to move the following Motion:-

THAT, pursuant to Standing Order 106 (1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.

I beg to move and I ask the Senate Minority Leader to second.

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, I beg to second.

(Question proposed)

The Speaker (Hon. Lusaka): This is a Procedural Motion, so I will put the question.

(Question put and agreed to)

The Speaker (Hon. Lusaka): Next Order.

BILLS

First Reading

THE NATIONAL COHESION AND PEACE BUILDING BILL
(SENATE BILLS NO.35 OF 2018)

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.140(1), the Bill stands committed to the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

*(Order for First Reading read – Read the First Time
and ordered to be referred to the Standing Committee on
National Cohesion, Equal Opportunity and Regional Integration)*

Let us go to the next Order.

First Reading

THE ELECTION LAWS (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO.37 OF 2018)

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.140(1), the Bill stands committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

*(Order for First Reading read – Read the First Time
and ordered to be referred to the Standing Committee
on Justice, Legal Affairs and Human Rights)*

Let us go to the next Order.

First Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(SENATE BILLS NO.40 OF 2018)

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.140(1), the Bill stands committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

*(Order for First Reading read – Read the First Time
and ordered to be referred to the Standing Committee
on Justice, Legal Affairs and Human Rights)*

Let us move to the next Order.

First Reading

THE GOVERNMENT CONTRACTS BILL
(NATIONAL ASSEMBLY BILLS NO.9 OF 2018)

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.140(1), the Bill stands committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

*(Order for First Reading read – Read the First Time
and ordered to be referred to the Standing Committee
on Justice, Legal Affairs and Human Rights)*

Hon. Senators, since we are going to the Committee of the Whole, I direct the Clerk-at-the-Table to read out Order Nos. 15 to 19.

COMMITTEE OF THE WHOLE

(Order for Committee read)

[The Speaker (Hon. Lusaka) left the Chair]

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Nyamunga) in the Chair]

THE PHYSICAL PLANNING BILL
(NATIONAL ASSEMBLY BILLS NO.34 OF 2017)

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, kindly take your seats because we want to proceed with The Physical Planning Bill (National Assembly Bills No.34 of 2017).

Clause 3

The Temporary Chairperson (Sen. Nyamunga): Could we have the Mover to move the amendment?

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:
THAT Clause 3 of the Bill be amended by—

- (a) inserting the words “with respect to land use planning” immediately after the words “for dispute resolution” in paragraph (e); and
- (b) inserting the following new paragraphs immediately after paragraph (g)—
- (h) a robust, comprehensive and responsive system of land use planning and regulation; and
- (i) provide a framework to ensure that investments in property benefit local communities and their economies.

(Question of the amendment proposed)

Division will be at the end.

Clause 4

Sen. Mwangi: Madam Temporary Chairperson, I have 41 pages of amendments. I beg to move:

THAT Clause 4 of the Bill be amended by deleting the marginal note and substituting therefor the following new marginal note—

Values and principles.

PART II

THAT the title to PART II of the Bill be amended by deleting the word “PHYSICAL” and substituting therefor the words “LAND USE”.

So, I propose that Clause 4 be amendment as provided for in the Order Paper because all the amendments are there.

The Temporary Chairperson (Sen. Nyamunga): That is acceptable. We will go by the proposal of the Mover but should there be any Senator who needs some clarification, they can come forward or raise them while he is still on the Floor.

The Senate Minority Leader (Sen. Orengo): On a point of order, Madam Temporary Chairperson. Since we will vote at the end, it is not proper for the Chairman to just stand and propose that the Bill be amended as indicated in the Order Paper. I think some little explanation about the amendments is needed. Some of them are to bring them in line with the Act as it is today; for example, the use of the words “land use planning” as opposed to the use of the phrase “physical planning”. However, just to read through as a machine and you do not explain, would not be good.

Sen. Mwangi: Okay.

The Temporary Chairperson (Sen. Nyamunga): Senator, you can just give briefs, but as quickly as possible.

Sen. Mwangi: Madam Temporary Chairperson, for Clause 3, it is intended to restrict---

The Temporary Chairperson (Sen. Nyamunga): Senator, we are through with Clause 3. Let us move to Clause 4.

Clause 4

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, Clause 4 of the Bill be amended by deleting the marginal note and substituting therefor the following new marginal note —
Values and principles.

Madam Temporary Chairperson, this is to provide a clearer marginal note.

PART II

THAT, the title to PART II of the Bill be amended by deleting the word “PHYSICAL” and substituting therefor the words “LAND USE”.

Madam Temporary Chairperson, it is because this Physical Planning Bill was for many purposes and not just for physical planning. That is why we decided to amend it to “Land Use Planning Bill.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

Clause 5

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, Clause 5 of the Bill be amended —

- (a) by deleting the word “Physical” appearing immediately after the words “established the National” in sub-clause (1) and substituting therefor the words “Land Use”.

Madam Temporary Chairperson, again, this is to amend the Bill from Physical Planning Bill to Land Use Planning because of the purposes of the Bill.

- (b) in sub-clause (2) by-

- (i) deleting the word “physical” appearing immediately after the words “matters related to” in paragraph (a) and substituting therefor the words “land use”

Again, this is for the amendment of the title from “Physical Planning” to “Land Use Planning. The Bill is not just for the purposes of physical planning; it has other uses.

- (ii) deleting paragraph (b) and substituting therefor the following new paragraph—

- (b) the Director General of land use planning;

The Bill was talking of a national director. Now, we have created many directors in the Bill, particularly the ones in counties. This one now becomes the Director-General instead of just the national director.

- (iii) deleting paragraph (c) and substituting therefor the following new paragraph—

- (c) three Governors appointed by the Council of Governors or their respective designated representatives;

- (iv) deleting paragraph (e);

- (v) inserting the words “or a designated member of the Commission” immediately after the words “National Land Commission” in paragraph (d);

This Committee had very few people. So, we were trying to enlarge it and that is the purpose of the amendment.

- (vi) inserting the words “or a designated principal secretary” immediately after the words “to economic planning” in paragraph (f);
- (vii) inserting the words “or a designated principal secretary” immediately after the words “to the environment” in paragraph (g);
- (viii) inserting the words “or a designated principal secretary” immediately after the words “roads and infrastructure” in paragraph (h);
- (ix) inserting the words “or a designated principal secretary” immediately after the words “and community development” in paragraph (i);
- (x) inserting the words “or a designated principal secretary” immediately after the words “related to culture” in paragraph (j);
- (xi) inserting the words “or a designated principal secretary” immediately after the words “related to defence” in paragraph (k);
- (xii) deleting paragraph (o) and substituting therefor the following new paragraph—
 - (o) a person nominated by a registered association representing the largest number of entities in the private sector in Kenya;

Madam Temporary Chairperson, this is for the same purpose of enlarging that body. Since there are so many amendments - and I am talking about 41 amendments - and we may take very long, I would rather go by what I had suggested; that I just say: “Be amended as contained in the Order Paper.” This is because all these amendments are in the Order Paper.

The Temporary Chairpersons (Sen. Nyamunga): Hon. Senator, you can give us a general summary because I think basically the amendments are the same. Just give us a summary.

(An hon. Member spoke off record)

Where you need a clarification for any particular Clause, you can raise it.

Sen. Olekina: Madam Temporary Chairperson, are these amendments clerical errors or maybe choice of words? What are they? The ones that you are reading right now seem to be choice of words and clerical or grammatical errors.

Sen. Mwangi: Madam Temporary Chairperson, each amendment has a purpose. We have amended the title, changed the name from national director to Director-General. Then, we shall now go to the counties and there are a few things that also have to be mentioned. So, every amendment has a purpose, so to say.

Madam Temporary Chairperson, if you prefer that I go the way I was going, I will just continue but it will take time.

The Temporary Chairpersons (Sen. Nyamunga): A general summary can just help. Where there are queries, they will be raised and then maybe you will expound on them.

Sen. (Prof.) Onger: On a point of order, Madam Temporary Chairpersons. This Bill is designed to make a very clear distinctive difference between the old Bill or Act of Parliament, which denotes the physical planning as it is today in our statutes, as opposed to the new philosophy of land use. This is because it has a much wider meaning. If that is the direction he is taking, then I am in sync with what he is saying, so that we do not spend so much time.

I think the idea of bringing in the word “land use” is because it has a wider meaning and application in terms of what must happen in the current statutes. I think that is a philosophy that you are borrowing in the overall. If that is the case, then I am in agreement with that general comment that we accept it. The rest are really substitution of words. If I have read through all these amendments and I see “land use,” and I think that is a dominant factor.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 6

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 6 of the Bill be amended by—

- (a) deleting the word “Physical” appearing immediately after the words “of the National” in the introductory clause and substituting therefor the words “Land Use”;
- (b) deleting the word “physical” appearing immediately after the words “on the national” in paragraph (a) and substituting therefor the words “land use”;
- (c) deleting the word “physical” appearing immediately after the words “and integration of” in paragraph (b) and substituting therefor the words “land use”;
- (d) deleting the word “physical” appearing immediately after the words “and implementation of” in paragraph (c) and substituting therefor the words “land use”; and
- (e) deleting the word “Physical” appearing immediately after the words “of the National” in the marginal note and substituting therefor the words “Land Use”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 7

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 7 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “Physical” appearing immediately after the words “The National” and substituting therefor the words “Land Use”;
- (b) in sub-clause (2) by deleting the word “Physical” appearing immediately after the words “Act, the National” and substituting therefor the words “Land Use”;
- (c) in sub-clause (3) by deleting the word “Physical” appearing immediately after the words “The National” and substituting therefor the words “Land Use”; and
- (d) by deleting the word “Physical” appearing immediately after the word “National” in the marginal note and substituting therefor the words “Land Use”.

This is the amendment of the title from physical planning to land use planning.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 8

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT Clause 8 of the Bill be amended in paragraph (c) by deleting the word “physical” appearing immediately after the words “parameters relating to” and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 9

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT Clause 9 of the Bill be amended—

- (a) in paragraph (a) by deleting the word “physical” appearing immediately after the words “national policy on” and substituting therefor the words “land use”;
- (b) in paragraph (b) by deleting the word “physical” appearing immediately after the words “specific aspects of” and substituting therefor the words “land use”;
- (c) by deleting paragraph (c) and substituting therefor the following new paragraph—
- (c) approval and oversight over the preparation of national land use

- a. development plans;
- (d) by deleting paragraph (d); and
- (e) in paragraph (e) by inserting the words “land use” immediately after the words “county levels of”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 10

Sen. Mwangi: I beg to move:-

THAT Clause 10 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “National Director of Physical” appearing immediately after the words “office of the” and substituting therefor the words “Director General of Land Use”;
- (b) in sub-clause (2) by deleting the words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Land Use”;
- (c) in sub-clause (3) by deleting words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Land Use”; and
- (d) by deleting the marginal note and substituting therefor the following new marginal note —
Director General of Land Use Planning.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 11

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 11 of the Bill be amended—

- (a) in the introductory clause by deleting the words “National Director of Physical” appearing immediately after the words “appointment as the” and substituting therefor the words “Director General of Land Use”;
- (b) in paragraph (b) by deleting word “bachelor’s” appearing immediately after the words “holds a” and substituting therefor the word “master’s”;
- (c) by deleting paragraph (c) and substituting therefor the following new paragraph—
 - (c) is registered as a professional planner and is in good standing with the relevant professional body;

- (d) by deleting paragraph (d) and substituting therefor the following new paragraph—
(d) has the relevant post-qualification professional experience in land use planning; and
- (e) by deleting the marginal note and substituting therefor the following new marginal note —
Qualifications of the Director General of Land Use Planning.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 12

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 12 of the Bill be amended —

- (a) in the introductory clause by deleting the words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Land Use”;
- (b) in paragraph (a) by —
- (i) deleting the word “physical” appearing immediately after the words “government on strategic” and substituting therefor the words “land use”; and
- (ii) deleting the word “on” appearing immediately after the words “matters that impact”;
- (c) in paragraph (b) by deleting the word “physical” appearing immediately after the words “formulating national” and substituting therefor the words “land use”;
- (d) in paragraph (c) by deleting the word “physical” appearing immediately after the words “preparation of national” and substituting therefor the words “land use”;
- (e) in paragraph (d) by deleting the word “physical” appearing immediately after the words “preparation of inter-county” and substituting therefor the words “land use”;
- (f) by inserting the following new paragraphs immediately after paragraph (e) —
- (f) undertaking research related to land use planning and development and making appropriate recommendations to relevant bodies; and (g) the preparation of development plans for strategic national installations and projects; and
- (g) by deleting the marginal note and substituting therefor the following new marginal note —
Responsibilities of the Director General of Land Use Planning.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 13

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT Clause 13 of the Bill be amended—

- (a) in the introductory clause by deleting the words “responsible for physical planning” appearing immediately after the words “executive committee member”;
- (b) in paragraph (a) by deleting the word “physical” appearing immediately after the words “county policy on” and substituting therefor the words “land use”;
- (c) by deleting paragraph (b);
- (d) in paragraph (c) by deleting the word “physical” appearing immediately after the words “integration of county” and substituting therefor the words “land use”;
- (e) by deleting the marginal note and substituting therefor the following new marginal note —

Responsibilities of the County Executive Committee Member.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 14

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 14 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “Physical” appearing immediately after the words “County Director of” and substituting therefor the words “Land Use”;
- (b) by deleting sub-clause (2) and substituting therefor the following new Sub-clause— (2) The County Director of Land Use Planning shall advise and be responsible to the county executive committee member.
- (c) by deleting the marginal note and substituting therefor the following new marginal note —
County Director of Land Use Planning.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Hon. Senator, I think we just need to make a small correction. You should say I beg to move, not I propose.

Clause 15

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 15 of the Bill be amended—

(a) in the introductory clause by deleting the word “Physical” appearing immediately after the words “County Director of” and substituting therefor the words “Land Use”;

(b) by deleting paragraph (c) and substituting therefor the following new paragraph— (c) is registered as a professional planner and is in good standing with the relevant professional body;

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

(d) has the relevant post-qualification professional experience in land use planning; and

(d) by deleting the marginal note and substituting therefor the following new marginal note —

Qualifications of a County Director of Land Use Planning.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 16

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 16 of the Bill be amended—

(a) in the introductory clause by deleting the word “Physical” appearing immediately after the words “County Director of” and substituting therefor the words “Land Use”;

(b) by deleting paragraph (a) and substituting therefor the following new paragraph — (a) advising the county government on land use planning matters that impact the county; deleting the word “physical” appearing immediately after the words “County Government on” and substituting therefor the words “land use”; and deleting the words “on the whole Country” appearing immediately after the words “matters that impact” and substituting therefor the words “the county”;

(c) in paragraph (b) by deleting the word “physical” appearing immediately after the words “formulating county” and substituting therefor the words “land use”;

(d) in paragraph (c) by deleting the word “physical” appearing immediately after the words “preparation of county” and substituting therefor the words “land use”;

(e) in paragraph (d) by deleting the word “physical” appearing immediately after the words “preparation of local” and substituting therefor the words “land use”;

- (f) in paragraph (e) by deleting the word “physical” appearing immediately after the words “preparation of inter-county” and substituting therefor the words “land use”;
- (g) in paragraph (f) by deleting the word “physical” appearing immediately after the words “matters relating to” and substituting therefor the words “land use”;
- (h) by inserting the following new paragraphs immediately after paragraph (g) — (h) maintaining a land information system to guide land use planning; (i) communicating decisions of the county government on development applications; and (j) issuance of development permission and other development control instruments under this Act with the approval of the County Executive Committee member (CEC) responsible for land use planning;
- (i) by deleting the marginal note and substituting therefor the following new marginal note —
Responsibilities of a County Director of Land Use Planning.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 17

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 17 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new Sub-clause—
 - (1) The Cabinet Secretary shall cause the National Land Use Development Plan to be prepared for approval and publication in accordance with this Part;
- (b) in sub-clause (2) by deleting the word “Physical” appearing immediately after the words “The National” in the introductory clause and substituting therefor the words “Land Use”; and
- (b) by deleting the marginal note and substituting therefore the following new marginal note —
The National Land Use Development Plan.

I also beg to move THAT the title to PART III of the Bill be amended by deleting the words “TYPES OF PHYSICAL” and substituting therefore the words “LAND USE”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 18

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 18 of the Bill be amended—

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

(1) The National Land Use Development Plan shall define strategic policies for the determination of the general direction and trends of land use development and sectoral development in Kenya and provide a framework for the use and development of land.

(b) in subclause (2) by—

(i) deleting the word “Physical” appearing immediately after the words “The National” in the introductory clause and substituting therefor the words “Land Use”;

(ii) deleting the word “physical” appearing immediately after the words “formulation of national” in paragraph (e) and substituting therefor the words “land use”; and

(c) by deleting the marginal note and substituting therefor the following new marginal note—

Purpose and objects of the National Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 19

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 19 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the in the introductory clause and substituting therefor the following new introductory clause—

(1) In preparing a National Land Use Development Plan, the Director General of Land Use Planning shall—;

(ii) deleting the words “National Director of Physical” appearing immediately after the words “Development Plan the” in the introductory clause and substituting therefor the words “Director General of Land Use”;

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

(d) consult the National Land Use Planning Consultative Forum prior to the initiation of the National Land Use Development Plan and submit the proposed plan to the National Land Use Planning Consultative Forum for consideration and input before its final approval;

(b) in subclause (2) by—

(i) deleting the word “Physical” appearing immediately after the words “consult the National” and substituting therefor the words “Land Use”;

- (ii) deleting the word “Physical” appearing immediately after the words “prepare a National” and substituting therefor the words “Land Use”; and
- (c) by deleting subclause (3) and substituting therefor the following new subclause—
 - (3) A notice published in accordance with this section shall state the objectives of National Land Use Development Plan, the purpose of the National Land Use Development Plan, the information to be set out in the plan, and the places where members of the public may provide written comments on the National Land Use Development Plan;
- (d) by deleting the marginal note and substituting therefor the following new marginal note—
 - Procedure for preparation of the National Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 20

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 20 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) deleting the word “Physical” appearing immediately after the words “a National” in the introductory clause and substituting therefor the words “Land Use”;
 - (ii) deleting the word “Physical” appearing immediately after the words “the state of” in paragraph (b)(i) and substituting therefor the words “land use”;
 - (iii) deleting the word “physical” appearing immediately after the words “and reports concerning” in paragraph (b)(ii) and substituting therefor the words “land use”;
 - (iii) deleting the word “physical” appearing immediately after the words “challenges relating to” in paragraph (c) and substituting therefor the words “land use”;
- (b) in subclause (2) by deleting the words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Land Use”;
- (c) in subclause (3) by deleting the word “Physical” appearing immediately after the words “of the National” and substituting therefor the words “Land Use”;
- (d) in subclause (4) by deleting the word “Physical” appearing immediately after the words “which a National” and substituting therefor the words “Land Use”; and

- (e) by deleting the marginal note and substituting therefor the following new marginal note—
Content of National Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 21

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 21 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the following new subclause—
(1) Within thirty days of the preparation of the National Land Use Development Plan, the Cabinet Secretary shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media informing the public that the draft National Land Use Development Plan is available at the place and time specified in the notice for inspection and that any interested person may, within fourteen days, comment on the content of the draft National Land Use Development Plan.
- (b) by deleting subclause (2) and substituting therefor the following new subclause—
(2) The Cabinet Secretary shall, within twenty one days of the expiry of the period for making comments under subsection (1), consider the comments made on the National Land Use Development Plan and may incorporate the comments in the plan.
- (c) by inserting the following new subclause immediately after subclause (2)—
(2A) Within seven days of making a decision under subsection (2), the Cabinet Secretary shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media informing the public that a decision on the comments received by the Cabinet Secretary has been made and that the reviewed draft National Land Use Development Plan is available at the places and times designated in the notice for perusal.
- (d) by inserting the words “within fourteen days of the publication of the notice under subsection (2A)” immediately after the words “Cabinet Secretary may” in subclause (3); and
- (e) by deleting the marginal note and substituting therefor the following new marginal note—
Notice of preparation of National Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 22

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT clause 22 of the Bill be amended—

- (a) in subclause (1) by deleting the words “Physical Development Plan to the National Physical” appearing immediately after the words “the draft National” and substituting therefor the words “Land Use Development Plan to the National Land Use”;
- (b) in subclause (2) by deleting the word “Physical” appearing immediately after the word “The National” and substituting therefor the words “Land Use”;
- (c) in subclause (3) deleting the word “Physical” appearing immediately after the words “by the National” and substituting therefor the words “Land Use”; and
- (d) in subclause (5) deleting the word “Physical” appearing immediately after the words “of the National” and substituting therefor the words “Land Use”;
- (e) deleting the marginal note and substituting therefor the following new marginal note —
Approval of the National Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 23

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT clause 23 of the Bill be amended by—

- (a) deleting subclause (1) and substituting therefor the following new subclause—
 - (1) Planning authorities shall base the preparation of inter-county land use development plans, integrated county land use development plans, city land use development plans, urban area land use development plans and sectoral plans on the National Land Use Development Plan.
- (b) deleting subclause (2) and substituting therefor the following new subclause—
 - (2) Notwithstanding the lack of a National Land Use Development Plan, planning authorities at the county level shall prepare County and Local Land Use Development Plans.
- (c) deleting the marginal note and substituting therefor the following new marginal note—
Implementation of a National Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 24

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT clause 24 of the Bill be amended—

- (a) in subclause (1) by deleting subclause (1) and substituting therefor the following new subclause—
- (1) At least three months before the end of the financial year, each public institution of a government that is responsible for the application or the implementation of a National Land Use Development Plan shall prepare and submit a status report on the implementation of the National Land Use Development Plan to the Cabinet Secretary or the county executive committee member and the Commission for their purposes.
- (b) in subclause (2) by inserting the word “be” immediately after the words “this section shall”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 25

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT the Bill be amended by deleting clause 25 and substituting therefor the following new clause—

Establishment
of Inter-County
Joint Land Use
Planning
Development
Committees.

25. (1) Two or more counties may, by mutual agreement or out of compelling necessity, formulate an inter-county land use development plan.

(3) In the preparation of a inter-county land use development plan, the counties shall form an inter-county land use planning joint committee.

(3)The inter-county land use planning joint committee shall consist of—

- (a) the county executive committee member of the respective counties;
- (b) two other relevant county executive committee members from the respective counties nominated by the relevant county

governor; and

(c) the Director General of Land Use Planning who shall be an *ex-officio* member of the Committee;

(4) The inter-county joint land use planning joint committee may co-opt such other persons as may be necessary to assist it in performance of its duties.

(5) The members of the inter-county joint land use planning joint committee appointed under subsection (3)(a) and (b) shall, during the first meeting of the Committee, elect from amongst themselves a chairperson and a vice chairperson provided that the chairperson and the vice chairperson shall not be county executive committee members from the same county.

(6) The Director General of Land Use Planning shall, in consultation with other members of the Committee, convene the first meeting.

(7) The Director General of Land Use Planning shall co-ordinate meetings of the inter-county joint land use planning joint committee and provide it with secretariat services.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 26

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 26 of the Bill be amended—

(a) in the introductory clause by deleting the word “Physical” appearing immediately after the words “An Inter-County” and substituting therefor the words “Land Use”; and

(b) by deleting the marginal note and substituting therefor the following new marginal note—

Scope of the Inter-County Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 27

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 27 of the Bill be amended—

- (a) in subclause (1) by deleting the words “Physical Planning Joint Committee preparing an Inter-County Physical” appearing immediately after the words “The Inter-County” and substituting therefor the words “Land Use Planning Joint Committee preparing an Inter-County Land Use”; and
- (b) in subclause (2) by deleting the word “Physical” appearing immediately after the words “of the Inter-County” and substituting therefor the words “Land Use”;
- (c) in subclause (3) by deleting the word “Physical” appearing immediately after the words “complete the Inter-County” and substituting therefor the words “Land Use”;
- (d) in subclause (4) by deleting the word “Physical” appearing immediately after the words “of the Inter-County” and substituting therefor the words “Land Use”; and
- (e) by deleting the marginal note and substituting therefor the following new marginal note—
Commencement of Inter-County Land Use Planning Process.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 28

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 28 of the Bill be amended by—

- (a) deleting subclause (1) and substituting therefor the following new subclause—
 - (1) Within thirty days of the completion of an Inter-County Physical Development Plan, the Inter-County Physical Planning Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation informing the public that the plan is available at the place and time specified in the notice for inspection and that any interested person may, within fourteen days, comment on the content of the plan.
- (b) deleting subclause (1) and substituting therefor the following new subclause—
 - (2) The Inter-County Land Use Planning Joint Committee shall, within twenty one days of the expiry of the period for making comments under subsection (1), consider the comments made about the plan and may or may not incorporate the comments in the plan.
- (c) inserting the following new subclause immediately after subclause (2)—
 - (2A) Within seven days of making a decision under subclause (2), the Inter-County Physical Planning Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation informing the public that a decision on the comments received by the joint

committee has been made and that the reviewed draft Inter-County Physical Development Plan is available for perusal at the place and time specified in the notice.

- (d) deleting subclause (3);
- (e) deleting subclause (4); and
- (f) deleting the marginal note and substituting therefor the following new marginal note—

Notice of and objections to an Inter-County Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 29

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 29 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) deleting the word “physical” appearing immediately after the words “in the Inter-County” and substituting therefor the words “land use”; and
 - (ii) deleting the words “and thereafter submit the same to the National Director of Physical Planning for processing and certification” appearing immediately after the words “Assemblies for approval”;
- (b) by deleting subclause (2) and substituting therefor the following new subclause—
 - (2) Within thirty days of the completion of an Inter-County Land Use Development Plan or if comments on the plan have been heard and determined, the Inter-County Physical Planning Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation informing the public that the Inter-County Physical Development Plan is available for perusal at the place and time specified in the notice.
- (c) in subclause (3) by—
 - (i) deleting the word “Physical” appearing immediately after the words “Before the Inter-County” and substituting therefor the words “Land Use”; and
 - (ii) deleting the word “Physical” appearing immediately after the words “by the Inter-County” and substituting therefor the words “Land Use”;
- (d) by deleting subclause (4) and substituting therefor the following new subclause—

(4) The approved Inter-County Land Use Development Plan shall be deposited with the relevant County Director of Land Use Planning who shall submit certified copies of the plan to the

Director General of Land Use Planning and the National Land Commission.

(e) by deleting the marginal note and substituting therefor the following new marginal note—

Approval of an Inter-County Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 30

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT the Bill be amended by deleting clause 30 and substituting therefor the following new clause—

Implementation

of the Inter-

County Land

Use

Development

Plan.

30. (1) In addition to the National Land Use Development Plan, the Inter-County Land Use Development Plan shall inform the preparation of a county land use development plan, a local land use development plan or an urban area land use development plan for the county governments within the planning area covered by the Inter-County Land Use Development Plan.

(2) Where a National Land Use Development Plan and an Inter-County Land Use Development Plan have not been prepared or approved, a county government may prepare other land use development plans which will be incorporated into the National Land Use Development Plan or the relevant Inter-County Land Use Development Plan after they have been prepared and approved in accordance with this Act.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 31

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT the Bill be amended by deleting clause 31 and substituting therefor the following new clause—

Status Reports
on an Inter-
County Land
Use
Development
Plan.

- 31.** At least three months before the end of each financial year, every county executive committee member in a county covered by an Inter-County Land Use Development Plan shall submit a report on the implementation of the respective Inter-County Land Use Development Plan to the Commission and the Cabinet Secretary for their purposes.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 32

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 32 of the Bill be amended—

- (a) in subclause (1) by deleting the word “physical” appearing immediately after the words “ten years a” and substituting therefor the words “land use”;
- (b) by deleting subclause (2) and substituting therefor the following new subclause—
 - (2) Each county land use development plan shall be in conformity with the National Land Use Development Plan and any relevant Inter-County Land Use Development Plan.
- (c) in subclause (3) by—
 - (i) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and
 - (ii) deleting the word “physical” appearing immediately after the words “ensure the county” and substituting therefor the words “land use”;
- (d) by deleting subclause (4); and

- (e) by deleting the marginal note and substituting therefor the following new marginal note—
County Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 33

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 33 of the Bill be amended—

- (i) in the introductory clause by deleting the word “physical” appearing immediately after the words “of a county” and substituting therefor the words “land use”;
- (ii) in paragraph (a) by deleting the word “physical” appearing immediately after the words “provide an overall” and substituting therefor the words “land use”; and
- (iii) by deleting the marginal note and substituting therefor the following new marginal note—
Purpose and objects of a county land use development plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 34

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 34 of the Bill be amended—

- (a) by deleting subclause (2) and substituting therefor the following new subclause—
- (1) At least twenty-one days before commencing the preparation of a county land use development plan, the county executive committee member shall publish a notice in the Gazette and the notice shall include the intention to prepare a county land use development plan, the objects of the plan and the matters to be considered in the plan and the address to which any views on the plan may be sent.
- (b) in subclause (3) by deleting the word “physical” appearing immediately after the words “of the county” and substituting therefor the words “land use”;
- (c) by deleting the marginal note and substituting therefor the following new marginal note—
Notice of intention to prepare a county land use development plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 35

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT clause 35 of the Bill be amended—

- (i) in the introductory clause by deleting the word “physical” appearing immediately after the words “A county” and substituting therefor the words “land use”;
- (ii) by deleting the marginal note and substituting therefor the following new marginal note—
Contents of a county land use development plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 36

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT clause 36 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) deleting the word “physical” appearing immediately after the words “of a county” and substituting therefor the words “land use”; and
 - (ii) deleting the word “physical” appearing immediately after the words “the draft county” and substituting therefor the words “land use”;
- (b) in subclause (2) by deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”;
- (c) in subclause (3) by—
 - (i) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and
 - (ii) deleting the word “physical” appearing immediately after the words “the draft county” and substituting therefor the words “land use”;
- (d) in subclause (4) by—
 - (i) deleting the word “physical” appearing immediately after the words “concerning the county” and substituting therefor the words “land use”; and

- (ii) deleting the word “physical” appearing immediately after the words “to the county” and substituting therefor the words “land use”;
- (e) in subclause (5) by deleting the word “physical” appearing immediately after the words “(4) the county” and substituting therefor the words “land use”;
- (f) in subclause (6) by deleting the word “physical” appearing immediately after the words “by the county” and substituting therefor the words “land use”;
- (g) in subclause (7) by deleting the word “Physical” appearing immediately after the words “of the County” and substituting therefor the words “Land Use”; and
- (h) by deleting the marginal note and substituting therefor the following new marginal note—
Public participation in the preparation of a county land use development plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 37

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT the Bill be amended by deleting clause 37 and substituting therefor the following new clause—

Completion
and approval of
a county land
use development plan.

37. (1) If there are no applications for the review of a county land use development plan or if all applications for review have been heard and determined, the county executive committee member shall submit the draft county land use development plan to the County Land Use Planning Consultative Forum for comments.

(2) The County Land Use Planning Consultative Forum shall consider the plan and may propose changes which shall be incorporated in the plan.

(3) Upon incorporation of the proposed changes by the County Land Use Planning Consultative Forum, the county executive committee member shall submit the completed county land use development plan to the county governor who shall cause it to be placed before the county assembly for approval.

(4) On the approval of the county land use development plan by the respective county assembly, the county executive

committee member shall publish the approved plan in the *Gazette* and in at least two newspapers with a national circulation within fourteen days of the approval and no development shall take place on any land unless it is in conformity with the approved plan

(5) A county land use development plan shall be the basis for the preparation of sectoral programmes and projects in the county and sub-county levels.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 38

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 38 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the words “in charge of spatial planning” appearing immediately after the words “executive committee member” in the introductory clause;

(ii) deleting the word “physical” appearing immediately after the words “of a county” in the introductory clause and substituting therefor the words “land use”;

(iii) deleting the word “physical” appearing immediately after the words “of that county” in paragraph (a) and substituting therefor the words “land use”; and

(iv) deleting the word “physical” appearing immediately after the words “since the county” in paragraph (b) and substituting therefor the words “land use”;

(b) in subclause (2) by—

(i) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member”; and

(ii) deleting the word “physical” appearing immediately after the words “to the county” and substituting therefor the words “land use”;

(c) in subclause (3) by—

(i) deleting the word “physical” appearing immediately after the words “amending a county” in the introductory clause and substituting therefor the words “land use”; and (ii) deleting paragraph (c) and substituting therefor the following new paragraph—

(c) be in conformity with the National Land Use Development Plan and all relevant Inter-County Land Use Development Plans;

- (d) by deleting subclause (4) and substituting therefor the following new subclause—
- (4) Where a county executive committee member determines that a proposed amendment to the county land use development plan shall affect other counties, the county executive committee member shall consult the county executive committee members in the counties that are likely to be affected and shall take into account their comments before incorporating the amendment to the county land use development plan.
- (e) in subclause (5) by deleting the word “physical” appearing immediately after the words “amending a county” and substituting therefor the words “land use”;
- (f) in subclause (6) by deleting the word “physical” appearing immediately after the words “The amended county” and substituting therefor the words “land use”;
- (g) in subclause (7) by deleting the word “physical” appearing immediately after the words “to the County” and substituting therefor the words “Land Use”; and
- (h) by deleting the marginal note and substituting therefor the following new marginal note—
- Modification of a County Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 39

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 39 of the Bill be amended—

- (a) in subclause (1) by—
- (i) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and
- (ii) deleting the word “physical” appearing immediately after the words “revising a county” and substituting therefor the words “land use”;
- (b) in subclause (2) by deleting the word “physical” appearing immediately after the words “of a county” and substituting therefor the words “land use”; and
- (c) by deleting the marginal note and substituting therefor the following new marginal note—
- Revision of a county land use development plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 40

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 40 of the Bill be amended by—

(a) deleting the word “Physical” appearing immediately after the words

“and the County” and substituting therefor the words “Land Use”; and

(b) deleting the marginal note and substituting therefor the following new marginal note—

Contents of the National, Inter-County and County Land Use Development Plans.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 41

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT clause 41 of the Bill be amended—

(a) in subclause (1) by deleting the word “physical” appearing immediately after the words “prepare a local” and substituting therefor the words “land use”;

(b) in subclause (2) by deleting the words “physical development plan may be for long-term physical development, short-term physical” appearing immediately after the words “A local” and substituting therefor the words “land use physical development plan may be for long-term land use development, short-term land use”.

(c) by deleting subclause (3) and substituting therefor the following new subclause—

(3) A local land use development plan shall be consistent with an Integrated City or Urban Development Plan formulated under Part V of the Urban Areas and Cities Act.

(i) deleting the words “physical development plan shall be consistent with” appearing immediately after the words “A local” in the introductory phrase and substituting therefor the words “land use development plan shall not cover an area covered by”; and

(ii) deleting the words “as contemplated” appearing immediately after the words “Urban Development Plan” and substituting therefor the word “formulated”; and

- (d) by deleting the marginal note and substituting therefor the following new marginal note— Local Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 42

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT clause 42 of the Bill be amended—

- (a) in the introductory clause by deleting the word “physical” appearing immediately after the words “prepare a local” and substituting therefor the words “land use”;
- (b) by deleting paragraph (e); and
- (c) by deleting the marginal note and substituting therefor the following new marginal note—
Purpose of a Local Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 43

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 43 of the Bill be amended by—

- (a) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and
- (b) deleting the marginal note and substituting therefor the following new marginal note—
Initiation and preparation of a local land use development plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 44

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 44 of the Bill be amended—

- (a) in subclause (1) by deleting the word “physical” appearing immediately after the words “A local” and substituting therefor the words “land use”;
- (b) in subclause (2) by deleting the word “physical” appearing immediately after the words “in a local” and substituting therefor the words “land use”; and
- (c) by deleting the marginal note and substituting therefor the following new marginal note—
Contents of a Local Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 45

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT clause 45 of the Bill be amended—

- (a) in subclause (1) by deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”;
- (b) in subclause (2) by—
 - (i) deleting the word “physical” appearing immediately after the words “to the county” and substituting therefor the words “land use”; and
 - (ii) deleting the word “physical” appearing immediately after the words “committee concerning county” and substituting therefor the words “land use”;
- (c) in subclause (3) by—
 - (i) deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”; and
 - (ii) deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”; and
- (d) by deleting the marginal note and substituting therefor the following new marginal note—
Local Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 46

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 46 of the Bill be amended by—

- (a) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”;
- (b) deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”; and
- (c) deleting the marginal note and substituting therefor the following new marginal note—
Approval of local land use development plans.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 47

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 47 of the Bill be amended—

- (a) in subclause (1) by deleting the introductory clause and substituting therefor the following new introductory clause—
 - (1) A county executive committee member may amend or revise a local land use development plan where—
- (b) in subclause (2) by—
 - (i) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and
 - (ii) deleting the word “physical” appearing immediately after the words “revise a local” and substituting therefor the words “land use”;
- (c) in subclause (3) by—
 - (i) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member”; and
 - (ii) deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”;
and
- (d) by deleting the marginal note and substituting therefor the following new marginal note —
Amendment or revision of a local land use development plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 48

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 48 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the word “Physical” appearing immediately after the words “or the National” in the introductory clause and substituting therefor the words “Land Use”; and

(ii) deleting the word “and” appearing immediately after the words “has unique development” and substituting therefor the words “natural resource or”;

(b) in subclause (2) by deleting the word “physical” appearing immediately after the words “area until a” and substituting therefor the words “land use”;

(c) in subclause (6) by deleting the word “physical” appearing immediately after the word “A” and substituting therefor the words “land use”; and

(d) by deleting the marginal note and substituting therefor the following new marginal note—

Local Land Use Development Plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

(Consultations)

Clause 49

The Temporary Chairperson (Sen. Nyamunga): This Clause has no amendment.

(Question that Clause 49 be part of the Bill proposed)

The Division will be at the end. Let us go to the next clause.

Clause 50

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 50 of the Bill be amended in subclause (1) by—

(a) deleting the word “physical development” appearing immediately after the words “to ensure orderly” in paragraph (a) and substituting therefor the words “development of land”;

(b) deleting the word “physical” appearing immediately after the words “implementation of approved” in paragraph (c) and substituting therefor the words “land use”; and

(c) deleting the word “physical” appearing immediately after the words “public participation in” in paragraph (f) and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 51

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 51 of the Bill be amended by—

(a) deleting the words “the planning authorities” appearing immediately after the words “Governments Act 2012” in the introductory clause and substituting therefor the words “county governments”;

(b) deleting the word “physical” appearing immediately after the words “implementation of approved” in paragraph (d) and substituting therefor the words “land use”; and

(c) deleting the word “physical” appearing immediately after the words “with the approved” in paragraph (f) and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 52

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 52 of the Bill be amended—

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

(1) A person shall not carry out development within a county without a development permission granted by the respective county executive committee member.

(b) in subclause (3) by deleting the words “The planning authority” appearing in the introductory phrase and substituting therefor the words “A county executive committee member”;

(c) in subclause (4) by—

(i) deleting the words “planning authority” appearing immediately after the words “sub-section (3) the” and substituting therefor the

words “relevant county executive committee member”; and
(ii) deleting the word “may” appearing immediately after the words “as required and” and substituting therefor the word “shall”; and
(d) in subclause (5) by deleting the words “The planning authority” appearing in the introductory phrase and substituting therefor the words “A county executive committee member”; and
(e) in subclause (6) by deleting the words “The planning authority” appearing in the introductory phrase and substituting therefor the words “A county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 53

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 53 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the words “a planning authority” appearing immediately after the words “development permission from” and substituting therefor the words “the respective county executive committee member”; and

(ii) deleting the words “planning authority” appearing immediately after the words “permission from that” and substituting therefor the words “county executive committee member”;

(b) in subclause (2) by deleting the words “planning authority” appearing immediately after the words “required by the” and substituting therefor the words “respective county executive committee member”;

(c) in subclause (4) by deleting the words “planning authority” appearing immediately after the words “consent to the” and substituting therefor the words “respective county executive committee member”;

(d) in subclause (5) by deleting the words “planning authorities” appearing immediately after the words “permission granted by” and substituting therefor the words “a county executive committee member”;

(e) in subclause (8) by deleting the words “planning authorities” appearing immediately after the words “to the relevant” and the words “county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 54

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 54 of the Bill be amended—

(a) by deleting the words “planning authority” appearing immediately after the words “provided to the” in subclause (1) and substituting therefor the words “respective county executive committee member”;

(b) in subclause (2) by—

(i) deleting the words “the planning authority” appearing immediately

after the words “do so by” and substituting therefor the words “a county executive committee member”; and

(ii) deleting the words “planning authority” appearing immediately after the words “provided to the” and substituting therefor the words “county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 55

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 55 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the words “a county government” appearing immediately after the words “for development permission,” and substituting therefor the words “the county executive committee member”; and

(ii) inserting the following new paragraph immediately after paragraph (f)—

(fa) urban development;

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

(2) Within fourteen days of receiving the copy of the application for development permission from a county executive committee member, the relevant authorities or agencies shall submit

their comments to the respective county executive committee member within twenty one days.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 56

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 56 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the words “planning authority” appearing immediately after the words “development permission a” in the introductory clause and substituting therefor the words “county executive committee member”; and

(ii) deleting the word “physical development plan” appearing immediately after the words “the relevant approved” in paragraph (a) and substituting therefor the words “national, county, local, city, urban, town and special area plans”;

(b) in subclause (2) by deleting the words “planning authority” appearing immediately after the words “for development permission” and substituting therefor the words “county executive committee member”;

(c) in subclause (3) by—

(i) deleting the words “the planning authority” appearing immediately

after the words “the decision of” and substituting therefor the words “a county executive committee member”; and

(ii) deleting the word “authority” appearing immediately after the words “decision by the” and substituting therefor the word “county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 57

Sen. Mwangi: Madam Temporary Chairperson, I beg to move-

THAT clause 57 of the Bill be amended—

(a) by deleting the words “A planning authority” appearing in the introductory phrase in subclause (1) and substituting therefor the words “Each county executive committee member”;

(b) by deleting the words “A planning authority” appearing in the introductory phrase in subclause (2) and substituting therefor the words “Each county executive committee member”;

(c) in subclause (3) by—

(i) deleting the words “the planning authority” appearing immediately after the words “register maintained by” and substituting therefor the words “a county executive committee member”; and

(ii) deleting the words “planning authority” appearing immediately

after the words “scrutiny and the” and substituting therefor the words “Cabinet Secretary”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 58

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 58 of the Bill be amended—

(a) by deleting the words “planning authority” appearing immediately after the word “A” in the introductory phrase in subclause (1) and substituting therefor the words “county executive committee member”; and

(b) by deleting the words “the planning authority” appearing immediately after the words “for development permission” in subclause (3) and substituting therefor the words “a county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 59

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 59 of the Bill be amended—

(a) in subclause (2) by—

(i) deleting the words “the planning authority” appearing immediately after the words “despite sub-section (1)” and substituting therefor the words “a county executive committee member”; and

(ii) deleting the words “planning authority” appearing immediately after the words “year if the” and substituting therefor the words “county executive committee member”;

(b) in subclause (3) by deleting the words “the planning authority” appearing immediately after the word “Where” and substituting therefor the words “a county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 60

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 60 of the Bill be amended by deleting the words “The planning authority” appearing at the beginning of the clause and substituting therefor the words “A county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 61

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 61 of the Bill be amended by deleting the words “planning authority” appearing immediately after the words “by the relevant” and substituting therefor the words “county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 62

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 62 of the Bill be amended in subclause (1) by—

(i) deleting the words “planning authority” appearing immediately after the words “imposed by a” in paragraph (a) and substituting therefor the words “county executive committee member”;

(ii) deleting the words “planning authority” appearing immediately after the words “approved by the” in paragraph (b)(iii) and substituting therefor the words “county executive committee member”;

(iii) deleting the words “planning authority” appearing immediately after the words “apply to the” in paragraph (c) and substituting therefor the words “county executive committee member”; and

(iv) inserting the following new subclauses immediately after subclause (1) —

(1A) A county government may require a person who commences, undertakes or carries out a development in contravention of this section to restore the land on which the development is taking place to its original condition or as near to its original condition as is possible and that such restoration shall take place within ninety days.

(1B) Where a person who is required to do so fails to comply with the provisions of paragraph (d), the relevant county government may undertake to restore the land as required and shall recover the cost of the restoration from the person required to undertake the restoration.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. There is a further amendment to the Clause.

Proceed, Mover.

(Consultations)

Sen. Mwangi, just a minute; that amendment was raised by Sen. Seneta.

(Consultations)

We have considered the first amendment on Clause 62 and now we are considering the second one.

Sen. Seneta: Madam Temporary Chairperson, I beg to move:-

THAT clause 62 of the Bill be amended –

(a) in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b) –

(c) being a public officer, grants development permission or comments on an application for development permission contrary to this Act or any other law.

(b) deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) A person who commits an offence under this section is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both.

(Consultations)

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 63

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 63 of the Bill be amended—

(a) in subclause (1)—

(i) by deleting the words “planning authority” appearing immediately after the word “A” in the introductory phrase and

- substituting therefor the words “county executive committee member”; and
- (ii) by deleting the word “physical” appearing immediately after the words “by the relevant” and substituting therefor the words “landuse”; and
- (b) in subclause (2) by deleting the words “planning authority” appearing immediately after the words “obtained by a” and substituting therefor the words “county executive committee member”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 64

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 64 of the Bill be amended in subclause (2) by deleting the word “physical” appearing immediately after the words “Any inter-county” and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

(Consultations)

Clause 65

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, Clause 65 does not have an amendment.

(Question that Clause 65 be part of the Bill proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 66

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 66 of the Bill be amended—

- (a) in subclause (1) by deleting the word “the” appearing immediately after the words “Heritage Act 2006” and substituting therefor the word “a”;
- and
- (b) in subclause (2) by deleting the word “physical” appearing immediately after the word “All” and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 67

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 67 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the introductory clause and substituting therefor the following new introductory clause—

(1) A county executive committee member shall serve the owner, occupier, agent or developer of property or land with an enforcement notice if it comes to the notice of that county executive committee member that—

(ii) deleting the words “without development permission” appearing immediately after the words “on any land” in paragraph (a);

(b) in subclause (3) by deleting the word “Physical” appearing immediately after the words “the relevant County” and substituting therefor the words “Land Use”; and

(c) in subclause (4) by deleting the word “physical” appearing immediately after the words “of the county” and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Let us go to the next clause.

Clause 68

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT Clause 68 of the Bill be amended by:-

(a) deleting the word “Physical” appearing immediately after the words “established the National” and substituting therefor the words “Land Use”; and

(b) deleting the marginal note and substituting therefor the following new marginal note:

Establishment of the National Land Use Planning Liaison Committee.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 69

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 69 of the Bill be amended:

(a) in sub-clause (1) by—

(i) deleting the word “Physical” appearing immediately after the words “The National” in the introductory Clause and substituting therefor the words “Land Use”;

(ii) inserting the following new paragraph immediately after paragraph (f)—

(fa) the National Director of Urban Development;

(iii) deleting the words “a representative” appearing in paragraph (g) and substituting therefor the words “two representatives”;

(iv) deleting paragraph (h) and substituting therefore the following new paragraph:

(h) a person nominated by a registered association representing the largest number of entities in the private sector in Kenya and appointed by the Cabinet Secretary;

(v) deleting the words “an association of architects in” appearing immediately after the words “architect nominated by” in paragraph (i) and substituting therefor the words “the Architectural Association of”;

(vi) deleting the word “physical” appearing immediately after the words “a registered” in paragraph (j);

(b) in sub-clause (3) by deleting the word “Physical” appearing immediately after the words “of the National” and substituting therefor the words “Land Use”;

(c) in sub-clause (5) by deleting the word “Physical” appearing immediately after the words “The National” and substituting therefor the words “Land Use”;

(d) in sub-clause (6) by—

(i) deleting the word “Physical” appearing immediately after the words “members of the National” and substituting therefor the words “Land Use”; and

(ii) deleting the word “Physical” appearing immediately after the words “quorum of the National” and substituting therefor the words “Land Use”; and

(e) by deleting the marginal note and substituting therefor the following new marginal note:

Composition of National Land Use Planning Liaison Committee.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 70

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

That Clause 70 of the Bill be amended:-

(a) in sub-clause (1) by—

(i) deleting the word “Physical” appearing immediately after the words “The National” in the introductory Clause and substituting therefor the words “Land Use”; and

(ii) deleting the word “physical” appearing immediately after the words “Secretary on broad” in paragraph (a) and substituting therefor the words “land use”;

(b) in sub-clause (2) by:

(i) deleting the word “Physical” appearing immediately after the words “The National” in the introductory Clause and substituting therefor the words “Land Use”; and

(ii) deleting the word “physical” appearing immediately after the words “national or inter-county” in paragraph (c) and substituting therefor the words “land use”; and

(c) deleting the marginal note and substituting therefor the following new marginal note:

Functions of the National Land Use Planning Liaison Committee.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 71

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT Clause 71 of the Bill be amended by:-

(i) deleting the word “Physical” appearing immediately after the words “established a County” and substituting therefor the words “Land Use”; and

(ii) deleting the marginal note and substituting therefor the following new marginal note:

Establishment of County Land Use Planning Liaison Committees.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 72

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT Clause 72 of the Bill be amended—

- (a) in sub-clause (1) by—
- (i) deleting the word “Physical” appearing immediately after the words “The County” in the introductory Clause and substituting therefor the words “Land Use”;
 - (ii) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member” in paragraph (a);
 - (iii) inserting the following new paragraph immediately after paragraph (b)—
 - (ba) a representative of the National Construction Authority;
 - (iv) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member” in paragraph (b);
 - (v) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member” in paragraph (ac);
 - (vi) deleting paragraph (d) and substituting therefore the following new paragraph:
 - (d) a registered architect with seven years’ post-qualification experience nominated by the Architectural Association of Kenya and appointed by the County Executive Committee member;
 - (vii) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member” in paragraph (e); and
 - (viii) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member” in paragraph (f);
- (b) in sub-clause (2) by deleting the word “physical” appearing immediately after the words “The county” and substituting therefor the words “land use”;
- (c) in sub-clause (3) by deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member”;
- (d) in sub-clause (4) by deleting the word “Physical” appearing immediately after the words “of the County” and substituting therefor the words “Land Use”; and
- (e) by deleting the marginal note and substituting therefor the following new marginal note:
Composition of the County Land Use Planning Liaison Committee.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 73

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 73 of the Bill be amended by—

- (i) deleting the word “Physical” appearing immediately after the words “of the County” in the introductory Clause and substituting therefor the words “Land Use”;
- (ii) by deleting the word “physical” appearing immediately after the words “with respect to” in paragraph (b) and substituting therefor the words “land use”; and
- (iii) by deleting the word “physical” appearing immediately after the words “member on broad” in paragraph (c) and substituting therefor the words “land use”; and
- (iv) deleting the marginal note and substituting therefor the following new marginal note—
Functions of the County Land Use Planning Liaison Committee.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 74

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 74 of the Bill be amended:

- (a) in sub-clause (1) by deleting the word “Physical” appearing immediately after the words “The County” and substituting therefor the words “Land Use”;
- (b) in sub-clause (2) by deleting the words “Physical” appearing immediately after the words “of the County” and substituting therefor the words “Land Use”;
- (c) in sub-clause (3) by deleting the words “Physical” appearing immediately after the words “of the County” and substituting therefor the words “Land Use”;
- (d) in sub-clause (4) by deleting the words “Physical” appearing immediately after the words “of a County” and substituting therefor the words “Land Use”;
- (e) in sub-clause (5) by deleting the word “Physical” appearing immediately after the words “of a County” and substituting therefor the words “Land Use”;
- (f) in sub-clause (6) by deleting the words “Physical” appearing immediately after the words “A County” and substituting therefor the words “Land Use”; and
- (g) by deleting the marginal note and substituting therefor the following new marginal note:

Procedure of the County Land Use Planning Liaison Committees.

Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 75

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 75 of the Bill be amended by—

- (a) deleting the words “County Physical” appearing immediately after the words “who appeals to” in sub-clause (1) and substituting therefor the words “a County Land Use”;
- (b) deleting the word “Physical” appearing immediately after the words “A County” in the introductory phrase in sub-clause (2) and substituting therefor the words “Land Use”;
- (c) deleting the word “Physical” appearing immediately after the words “of a County” in sub-clause (3) and substituting therefor the words “Land Use”; and
- (d) deleting the marginal note and substituting therefor the following new marginal note:
Appeal to a County Land Use Planning Liaison Committee.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 76

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 76 of the Bill be amended—

- (a) in sub-clause (1) by:
 - (i) deleting the word “Physical” appearing immediately after the words “before a County” and substituting therefor the words “Land Use”;
 - and
 - (ii) deleting the word “or” appearing immediately after the words “Planning Liaison Committee”; and
- (b) by deleting the marginal note and substituting therefor the following new marginal note:
Duty to appear before a County Land Use Planning Liaison Committee.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end

Clause 77

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT Clause 77 of the Bill be amended-

by deleting the word “Physical” appearing immediately after the words “by a County” and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 78

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT Clause 78 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “Physical” appearing immediately after the words “before a County” and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by deleting the word “Physical” appearing immediately after the words “The County” and substituting therefor the words “Land Use”;

(c) in sub-clause (3) by deleting the word “Physical” appearing immediately after the words “Where a County” and substituting therefor the words “Land Use”;

(d) in sub-clause (4) by deleting the word “Physical” appearing immediately after the words “The County” and substituting therefor the words “Land Use”; and

(e) in sub-clause (5) by deleting the word “Physical” appearing immediately after the words “Every County” and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 79

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT Clause 79 of the Bill be amended by:

(i) deleting the word “Physical” appearing immediately after the words “to the National” and substituting therefor the words “Land Use”; and

(ii) deleting the marginal note and substituting therefor the following new marginal note:

Appeals to National Land Use Planning Liaison Committee.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 80

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 80 of the Bill be amended-

(a) in sub-clause (1) by—

(i) deleting the word “Physical” appearing immediately after the words “of the National” and substituting therefor the words “Land Use”; and

(ii) deleting the word “Physical” appearing immediately after the words “or a County” and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by deleting the word “Physical” appearing immediately after the words “member of a” and substituting therefor the words “Land Use”; and

(c) in sub-clause (3) by deleting the word “physical” appearing immediately after the words “member of a” and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 81

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 81 of the Bill be amended-

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

(1) A person shall not disclose, without the consent of the National Land Use Planning Liaison Committee or a County Land Use Planning Liaison Committee, as the case may be:-

(b) in sub-clause (3) by deleting the words “Physical Planning Liaison Committee or a County Physical” appearing immediately after the words “on the National” and substituting therefor the words “Land Use Planning Liaison Committee or a County Land Use”.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 82

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 82 of the Bill be amended—

(a) sub-clause (1) by deleting the word “Physical” appearing immediately after the word “Each” in the introductory phrase in and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by deleting the word “Physical” appearing immediately after the words “register maintained by” and substituting therefor the words “Land Use”;

(c) in sub-clause (3) by deleting the word “Physical” appearing immediately after the words “apply to a” and substituting therefor the words “Land Use”; and

(d) by deleting the marginal note and substituting therefor the following new marginal note:

Land Use Planning Liaison Committees to keep registers.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 83

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT Clause 83 of the Bill be amended by deleting the word “Physical” appearing immediately after the words “members of the” and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 84

The Chairperson (Sen. Nyamunga): It does not have an amendment so I put the question.

(Question that Clause 84 be part of the Bill proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 85

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT Clause 85 of the Bill be amended in sub-clause (2) by:

- (i) deleting the word “physical” appearing immediately after the words “for delivery of” in paragraph (b) and substituting therefor the words “land use”;
- (ii) deleting the word “Physical” appearing immediately after the words “operations of Inter-County” in paragraph (c) and substituting therefor the words “Land Use”; and
- (iii) deleting the word “Physical” appearing immediately after the words “the conduct of” in paragraph (d) and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

Clauses 86 and 87

The Chairperson (Sen. Nyamunga): Clauses 86 and 87 do not have amendments.

(Question that Clauses 86 and 87 be part of the Bill proposed)

Division will be at the end.

Clause 88

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT Clause 88 of the Bill be amended by:

- (i) deleting the word “physical” appearing immediately after the words “disputes relating to” and substituting therefor the words “land use”; and
- (ii) deleting the word “physical” appearing immediately after the words “national and county” and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Chairperson (Sen. Nyamunga): Division will be at the end.

New Clause 4A

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT the Bill be amended by inserting the following new clause immediately after clause 4—

of land use
planning.

- 4A.** Every person engaged in land use planning and regulation shall adhere to the following principles and norms of land use planning—
- (a) land use planning shall promote sustainable land use and liveable communities which integrates human needs in any locality.
 - (b) development activities shall be planned in a manner that integrates economic, social and environmental needs of present and future generations;
 - (c) land use planning shall be comprehensive, sustainable and integrated at all levels of government, taking into consideration the interests of all parties concerned;
 - (d) land use planning shall take into consideration long-term optimum utilization of land and conservation of scarce land resource including preservation of land with important functions;
 - (e) land use planning shall be inclusive and must take into consideration culture and heritage of people concerned; and
 - (f) land use planning should take into account new approaches such as transit-oriented development, mixed land-uses, planning for public transport and non-motorized transport among others to achieve sustainable development and more efficient use of natural resources Use Planning Consultative Forum in each county.

(Question of the New Clause 4A proposed)

(New Clause 4A read the First Time)

*(Question, that New Clause 4A be now read a
Second Time proposed)*

The Chairperson (Sen. Nyamunga): Division will be at the end.

New Clause 12 A

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT the Bill be amended by inserting the following New Clause immediately after Clause 12-

County
Land Use
Planning

Consultative
Forum.

- 12A.** (1) There is established a County Land Use Planning Consultative Forum in each county.
- (2) Each County Land Use Planning Consultative Forum shall comprise of—
- (a) the respective County Executive Committee Member responsible for matters related to land use, who shall be the chairperson and shall provide the secretariat;
 - (b) the County Director of land use Planning;
 - (c) the Chairperson of the committee responsible for matters related to land use in the respective county assembly;
 - (d) the County Executive Committee Member responsible for matters related to economic planning;
 - (e) the County Executive Committee Member responsible for matters related to the environment;
 - (f) the County Executive Committee Member responsible for matters related to roads and infrastructure;
 - (g) the County Executive Committee Member responsible for matters related to social and community development;
 - (h) a person nominated by the Commission;
 - (i) a person nominated by the Director General of Land Use Planning;
 - (j) a person residing and working or conducting business in the respective county nominated by the Kenya Institute Planners; Functions of the County Land Use Planning Consultative Forum.
 - (k) a person residing and working or conducting business in the respective county nominated by the Institution of Surveyors of Kenya;
 - (l) a person residing and working or conducting business in the respective county nominated by the Architectural Association of Kenya;
 - (m) a person residing and working or conducting business in the respective county nominated by a registered association representing the largest number of entities in the private sector in Kenya;
 - (n) a person residing and working or conducting business in the respective county nominated by a registered national association representing the largest number of residents in Kenya;
 - (o) a person residing and working or conducting business in the respective county nominated by the National Council for Persons with Disability; and
 - (p) any person co-opted by the County Land Use Planning Consultative Forum for that person's special skills, interest and knowledge.
- (3) The respective County Executive Committee Member responsible for matters related to land use shall appoint members nominated under subsection (2)(i), (k), (l), (m), (n), (o), (p) and (q) by notice in the *Gazette*.

(Question of the New Clause 12A proposed)

(New Clause 12A read the First Time)

*(Question that New Clause 12A be now read a
Second Time proposed)*

The Chairperson (Sen. Nyamunga): Division will be at the end.

New Clause 12B

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 12-

12B. The functions of the National Physical Planning Consultative Forum shall be to—

- (a) provide a forum for consultation on County and Inter-County Land Use Development Plans;
- (b) promote effective coordination and integration of land use development and sector planning; and,
- (c) advise on the mobilization of adequate resources for the preparation and implementation of land use development plans and strategies.

(Question of the New Clause 12B proposed)

(New Clause 12B read the First Time)

*(Question, that the New Clause 12B be read a
Second Time, proposed)*

*(Question, that the New Clause 12B
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

New Clause 12C

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 12-

County Land Use Planning
Consultative Forum Meetings.

12C. (1) County Land Use Planning Consultative Forum shall meet at least four times in a year.

(2) Subject to this Act and any relevant county legislation, the County Land Use Planning Consultative Forum may regulate its procedure.

(3) The County Land Use Planning Consultative Forum may establish committees for the effective performance of its functions.

(Question of the New Clause 12C proposed)

(New Clause 12C read the First Time)

(Question, that the New Clause 12C be read a Second Time, proposed)

(Question, that the New Clause 12C be part of the Bill, proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

New Clause 49A

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 49-

Plans to be made in
accordance with this Act.

49A. All plans formulated under the Urban Areas and Cities Act shall, with necessary modifications, be prepared and approved in accordance with this Act.

(Question of the New Clause 49A proposed)

(New Clause 49A read the First Time)

*(Question, that the New Clause 49A be read a
Second Time, proposed)*

*(Question, that the New Clause 49A
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

New Clause 60A

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after clause 60—

Registration of documents at
the Lands Registry.

60A. (1) A registrar shall not register a transaction in respect of any premises or land whose development permission as required under this Act has not been granted by the relevant county government.

(2) A registration entered in contravention of sub-section (1) shall not be valid.

(Question of the New Clause 60A proposed)

(New Clause 60A read the First Time)

*(Question, that the New Clause 60A
be read a Second Time, proposed)*

*(Question, that the New Clause 60A
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

First Schedule

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

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

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

Second Schedule

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, the Second Schedule to the Bill be amended—

(a) in the title by deleting the word “PHYSICAL” appearing immediately after the words “INTER-COUNTY AND COUNTY” and substituting therefor the words “LAND USE”;

(b) in paragraph 3 by—

(i) inserting the following new subparagraph immediately after subparagraph (1)—

(1a) human rights, poverty eradication, gender and vulnerable groups;

(ii) inserting the following new subparagraph immediately after subparagraph (10)—

(10a) climate change;

(c) in paragraph 12 by deleting the words “Executive Committee” appearing immediately after the words “report to the” in subparagraph (1) and substituting therefor the words “relevant county assembly”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

Third Schedule

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, the Third Schedule to the Bill be amended—

(a) deleting the word “PHYSICAL” appearing immediately after the words “CONTENTS OF LOCAL” in the title to the Schedule and substituting therefor the words “LAND USE”;

(b) by deleting the word “PHYSICAL” appearing immediately after the words “IN A LOCAL” in the title to the Part A of the Schedule and substituting therefor the words “LAND USE”; (c) in paragraph 3 by inserting the following new subparagraph immediately after subparagraph (2)—

(c) addressing human rights challenges, poverty eradication, gender and vulnerable groups;

(d) combating climate change;

(e) in paragraph 5 by deleting the word “physical” appearing immediately after the words “analysis accompanied by” in the introductory clause in subparagraph (a) and substituting therefor the words “land use”; and in paragraph 7 by deleting the word

“physical” appearing immediately after the words “maps of the” in subparagraph (b) and substituting therefor the words “land use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

Fourth Schedule

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, the Fourth Schedule to the Bill be amended—

- (a) by deleting the words “MATTERS WHICH MAY BE DEALT WITH UNDER” in the title to the Schedule;
- (b) in paragraph 2 by—
 - (i) deleting the words “The Planning Authority” appearing in the introductory clause and substituting therefor the words “A county government”;
 - (ii) deleting the word “physical” appearing immediately after the words “bound by approved” in subparagraph (a) and substituting therefor the words “land use”;
- (c) in paragraph 3 by deleting the words “Planning Authority” appearing immediately after the words “agricultural land the” and substituting therefor the words “county government”;
- (d) by deleting paragraph 4 and substituting therefor the following new paragraph—

4. Planning authorities shall require applications for major developments to be subjected to environmental and social impact assessment
- (e) in paragraph 5 by deleting the word “physical” appearing immediately after the words “of an approved” in subparagraph (a) and substituting therefor the words “land use”;
- (f) in paragraph 6 by deleting the word “physical” appearing immediately after the words “of relevant approved” in subparagraph (d) and substituting therefor the words “land use”;
- (g) in paragraph 7 by deleting the word “physical” appearing immediately after the words “of relevant approved” in subparagraph (b) and substituting therefor the words “land use”.
- (h) in paragraph 8 by—
 - (i) deleting the words “the Planning authority” appearing in the introductory clause and substituting therefor the words “a county government”;
 - (ii) deleting the words “planning authority” appearing immediately after the words “the required standard” in subparagraph (p) and substituting therefor the words “county government”; by deleting the words “the planning authority” appearing immediately after the words “the required

- standard” and substituting therefor the words “a county government”;
- (i) in paragraph 9 by deleting the words “the planning authority” appearing immediately after the words “the required standard” and substituting therefor the words “a county government”;
- (j) in paragraph 10 by deleting the words “planning authority” appearing immediately after the words “period as the” and substituting therefor the words “county government”;
- (k) by deleting paragraph 14; (l) in paragraph 16 by—
- (i) deleting the words “the Planning authority” appearing immediately after the words “permission from the” in the introductory clause and substituting therefor the words “relevant county government”;
- (ii) deleting the words “Planning authority” appearing immediately after the words “factor that the” in subparagraph (9) and substituting therefor the words “county government”;
- (m) in paragraph 17 by deleting the words “Planning authority” appearing immediately after the word “A” in the introductory phrase and substituting therefor the words “county government”;
- and
- (n) in paragraph 18 by deleting the words “Planning authority” appearing immediately after the words “from the relevant” and substituting therefor the words “county government”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division at the end.

Clause 2

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, Clause 2 of the Bill be amended by—

- (a) deleting the word “planning” appearing immediately after the words “matter related to” in the definition of the term “Cabinet Secretary” and substituting therefor the words “land use”; and
- (b) deleting the definition of the term “land use planning” and substituting therefor the following new definition—
- “land use planning” refers to the interdisciplinary process of evaluating, organising and controlling the present and the future development and use of land and its resources to secure the physical, economic and social efficiency, health and well-being of urban and rural communities;

(c) deleting the definition of the term “local physical planning development plan” and substituting therefor the following new definition—

“local land use development plan” means a plan for the area or part thereof of a city, municipality, town or urban council and includes a plan with reference to any trading or marketing centre;

(d) deleting the definition of the term “National Director of Physical Planning” and substituting therefor the following new definition in its proper alphabetical sequence— “Director General of Land Use Planning” means the Director General of Land Use Planning appointed under section 10 of this Act;

(e) deleting the definition of the term “physical planning” and substituting therefor the following new definition— “physical planning” refers to a form of land use planning which attempts to achieve an optimal spatial coordination of different human activities for the enhancement of the quality of life;

(f) deleting the words “responsible for matters relating to physical planning” appearing immediately after the words “Executive Committee Member” in paragraph (b) in the definition of the term “planning authority”;

(g) deleting the definition of the term “Inter-County physical development plan” and substituting therefor the following new definition— “Inter-County Land Use Development Plan” means a plan for an area covering two or more counties or parts thereof;

(h) deleting the definition of the term “spatial planning” and substituting therefor the following new definition— “spatial planning” means the methodology and approach used to influence the distribution of people and activities to achieve optimal utilisation of physical, economic and socio cultural resources;

(i) inserting the following new definitions in their proper alphabetical sequence— “county executive committee member” means the county executive committee member responsible for matters relating to land use planning in the respective county; “registrar” has the same meaning assigned it under section 2 of the Land Registration Act

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

The Title

*(Question, that the Title
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end.

Clause 1

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:

THAT, Clause 1 of the Bill be amended by deleting the word “Physical” appearing immediately after the words “cited as the” and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will be at the end. Hon. Senators, we have concluded the Clauses, but we will only give a progress report. We cannot take a vote.

The Mover can now proceed.

PROGRESS REPORTED

Sen. Mwangi: Madam Temporary Chairperson, pursuant to Standing Order 139, I beg to move that the Committee do report progress on it is consideration of the Physical Planning Bill (National Assembly Bills No.34 of 2017) and seeks leave to sit again tomorrow.

Sen. Wamatangi seconded.

(Question proposed)

(Question put and agreed to)

THE LAND VALUE INDEX LAWS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 3 OF 2018)

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, we are now proceeding to consider the amendments on the Land Value Index Laws (Amendment) Bill (National Assembly Bills No. 3 of 2018).

Clause 2

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 2 of the Bill be amended by—

- (a) deleting the proposed definition of the term “prompt” and substituting therefor the following new definition—
“prompt” means within a reasonable time of, and in any case not more than one year after, the taking of possession of the land by the Commission;

(b) deleting the proposed definition of the term “full” and substituting therefor the following new definition—
“full” in relation to compensation for compulsorily acquired land or creation of wayleaves, easements and public rights of way means the restoration of the value of the land, including improvements thereon, as at the date of the notice of intention to acquire the land and any other matter provided for in this Act;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 3

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT, the Bill be amended by deleting Clause 3.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 4

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT, the Bill be amended by deleting clause 4.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 5

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 5 of the Bill be amended —

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

(a) by inserting the following new subsection immediately after subsection (3)—

(3A) Where the Commission rejects a request of an acquiring body in accordance with subsection (3), the Commission shall inform the relevant acquiring body within seven days of the decision to reject the request.;

(b) in paragraph (b) by deleting the proposed new subsection (4)(b) and substituting therefor the following new paragraph—

- (b) establish that the acquiring authority has identified the number and maintains a register of persons in actual occupation of the land, confirming for each such occupation how much time they have been in uninterrupted occupation or ownership of interest in the land prior to the date of the request for acquisition of the land, and the improvements thereon;
- (c) in paragraph (c) by deleting the word “body” appearing immediately after the words “in the acquiring” in the proposed subsection 107(5B) and substituting therefor the word “authority”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 6

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 6 of the Bill be amended—

- (a) in the proposed new section 107A—
 - (i) by deleting subsection (1) and substituting therefor the following new subsection—
 - (1) Valuation of freehold land and community land for purposes of compensation under this Act shall be based on the provisions of this Part and the land value index developed for that purpose by the Cabinet Secretary in consultation with county governments and approved by the National Assembly and the Senate;
 - (ii) in subsection (4) by deleting the word “apparent” appearing immediately after the words “increase in the” in the introductory clause in paragraph (c);
 - (iii) in subsection (4) by inserting the words “and are not capital improvements” immediately after the words “state of repair” in paragraph (c)(ii)
 - (iv) in subsection (8) by deleting the word “twelve” appearing immediately after the words “uninterrupted period of” in paragraph (a) and substituting therefor the word “six”;
- (b) in the proposed new subsection 107B(2)—
 - (i) by deleting paragraph (a) and substituting therefor the following new paragraph—
 - (a) the value of the land based on the unexpired term of the lease calculated on the basis of a land value index developed for that purpose by the Cabinet Secretary

in consultation with county governments and approved by the National Assembly and the Senate;

(ii) by deleting the word “cost” appearing immediately after the word “the” in paragraph (b) and substituting therefor the word “value”; and

(iii) by inserting the words “in consultation with the Cabinet Secretary and county governments and with the approval of the National Assembly and the Senate” immediately after the words “prescribe in Regulations” in paragraph (c).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 7

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 7 of the Bill be amended—

(a) in the proposed new subsection (1A) by inserting the following proviso immediately after paragraph (f)— Provided that regardless of the form of compensation under this section, where an acquisition process is not completed within twenty four months from the date of publication of the notice of intention to acquire, the acquisition shall lapse.;

(b) by renumbering the existing clause as subclause (1) and inserting the following new subclause immediately after subclause (1)— (2) Section 111 of the Land Act is amended in subsection (1A) by deleting the word “body” appearing immediately after the words “The acquiring” and substituting therefor the word “authority”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clauses 8 - 11

(Question, that Clauses 8- 11 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 12

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 12 of the Bill be amended by—

(a) deleting paragraph (a);

(b) by deleting paragraph (b) and substituting therefor the following new paragraph— (b) by deleting subsection (1) and substituting therefor the following new subsection— (1) After an award has been made, the Commission may take possession of the respective land by serving on every person interested in the land a notice that on a specified day possession of the land and the title to the land will vest in the national or county government as the case may be, provided that such taking of possession will not result in persons being rendered homeless.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 13

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT, the Bill be amended by deleting Clause 13.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 14

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT, the Bill be amended by deleting Clause 14.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 15

(Question, that Clauses 15 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 16

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-
THAT, Clause 16 of the Bill be amended by deleting paragraph (b).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 17

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 17 of the Bill be amended in the proposed new section 133A by deleting subsection (2) and substituting therefor the following new subsection—

- (2) The members of the Tribunal shall consist of —
- (a) one person nominated by the Judicial Service Commission, who shall serve as the chairperson;
 - (b) one person nominated by the Cabinet Secretary;
 - (c) one person nominated by the Valuers Registration Board
 - (d) one person nominated by Land Surveyors' Board; and
 - (e) one person nominated by Attorney General.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clauses 18-21

(Question, that Clauses 18-21 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Title

(Question, that the Title be part of the Bill, proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 1

Sen. Mwangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 1 of the Bill be amended by deleting the words "Value Index" appearing immediately after the words "as the Land".

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Sen. Mwangi: Madam Temporary Chairperson, pursuant to Standing Order No.148, I beg to move that the Committee do report progress on its consideration of the Land Value Index Laws (Amendment) Bill (National Assembly Bills No. 3 of 2018), and seek leave to sit again tomorrow.

Sen. Wamatangi seconded.

(Question proposed)

(Question put and agreed to)

THE KENYA ROADS BILL (NATIONAL ASSEMBLY
BILLS NO. 47 OF 2017)

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, let us proceed to the next Order; Committee of the Whole on The Kenya Roads Bill (National Assembly Bills No.47 of 2017).

Clauses 3-6

*(Question, that Clauses 3-6
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): The Division will come at the end.

Clause 7

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 7 of the Bill be amended in sub-Clause (1)—

(a) by deleting the word “and” appearing immediately after the words “research on roads”;

(b) by inserting the word “and” immediately after the words “the National Transport and Safety Authority” and;

(c) by inserting the following new paragraph—
“(k) the Council of Governors.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): The Division will come at the end.

Sen. Omogeni has an amendment to make.

Sen. Omogeni: Madam Temporary Chairperson, I propose to drop Clause 7(a) and beg to move:

THAT, Clause 7(b) be part of the Bill.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 8

*(Question, that Clause 8
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 9

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 9 of the Bill be amended in sub-clause (1) by inserting the words “in consultation with the Council of Governors” immediately after the words “Cabinet Secretary”.

(Question of the amendment proposed)

Clause 10

*(Question, that Clause 10
be part of the Bill, proposed)*

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 10 of the Bill be amended—

(a) in sub-clause (2)

(i) by deleting the word “and” appearing immediately after the word road in paragraph(a);

(ii) by inserting the words “; and” immediately after the words “county road”

(iii) by inserting the following paragraph immediately after paragraph (b)—

‘(c) there is uniformity in the classification of roads.’

(b) in sub-clause (3) by inserting the words, “in consultation with the relevant county government” immediately after the words “Cabinet Secretary” in the introductory phrase.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 11

*(Question, that Clause 11
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 12

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 12 of the Bill be amended—

(a) in sub-clause (3) by deleting the words “in each county” appearing immediately after the words “administrative offices”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 13

*(Question, that Clause 13
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 14

Sen. Omogeni: Madam Temporary Chairperson, I propose to drop the amendment in Clause 14a (b).

I beg to move:

THAT, Clause 14(c) be part of the Bill.

(Question of the amendment proposed)

Clause 15 and 16

*(Question, that Clauses 15 and 16
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 17

Sen. Omogeni: Madam Temporary Speaker, I propose to drop the amendment to Clause 17a (b).

I beg to move:

THAT, Clause 17(c) be part of the Bill.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clauses 18 and 19

*(Question, that Clause 18 and 19
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 20

Sen. Omogeni: Madam Temporary Chairperson, I propose to drop amendment to Clause 20a (b).

I beg to move:

THAT, Clause 20(c) be part of the Bill.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clauses 21-43

*(Question, that Clauses 21-43
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 44

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 44 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) —

“(3) The Authority in exercising its powers under this section shall seek consultation and approval of the relevant county government.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clauses 45 and 46

*(Question that Clauses 45 and 46
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 47

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 47 of the Bill be deleted and substituted therefore with the following new clause:

Power to take water

47. An Authority may for its purposes and in consultation with the relevant county government, take water from any watercourse subject to the Water Act.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 48

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 48 of the Bill be amended—

(a) in sub-clause (5) by inserting the words ‘or any court of law’ appearing immediately after the words ‘National Lands Commission’, and

(b) by inserting the following new sub-clauses appearing immediately after sub-clause (12)—

(13) Roads referred to in sub-section (1) shall not be carried out where they may endanger any rare or threatened species, wildlife migration, water sources or springs or sites of cultural or natural importance

(14) All contemplated roads or road-works in sensitive areas of cultural or natural importance such as wetlands, indigenous forests and historic or prehistoric sites shall require approval from the National Environment Management Authority as per section 42 of the Environmental Management and Co-ordination Act, 1999.

(15) In the event that the proposed road works cannot avoid passing through a protected area, the Authority shall construct overpasses or underpasses to allow wildlife movement at frequent intervals.

(16) With reference to sub-section 15, where overpasses or underpasses cannot be constructed, the Authority shall ensure that fences are erected on both sides of the road.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clauses 49, 50 and 51

*(Question that Clauses 49, 50 and 51
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 52

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 52 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4)—

“(5) Any matter brought to the Intergovernmental Relations Technical Committee under subsection (4) shall be determined expeditiously.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clauses 53, 54 and 55

*(Question that Clauses 53,54 and 55
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 56

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 56 of the Bill be amended in sub-clause (1) and substituting therefore with the following new sub-clause—

Road user charges 56. (1) The Cabinet Secretary responsible for finance may, in consultation with the Cabinet Secretary, make Regulations in accordance with this section authorizing the imposition and collection of road user charges by the Authority in respect of national roads.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clauses 57-66

*(Question that Clauses 57-66
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 67

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT, Clause 67 of the Bill be amended in sub-clause (1) by deleting the words ‘or for the use of road reserves’ appearing immediately after the word ‘services’

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.
Sen. Kang'ata is not around so we will drop that amendment.

(Proposed amendment by Sen. Kang'ata dropped)

Clauses 68-100

*(Question, that Clauses 68-100
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 101

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 101 of the Bill be amended—

- (a) by renumbering the existing clause as sub-clause (1), and;
- (b) by inserting the following new sub-clause under sub-clause (1)—

‘(2) In the exercise of the powers under subsection (1), each county government through their County Roads Agency shall classify and assign the roads under their jurisdiction and submit the proposed classification to the Cabinet Secretary for approval and inventory purposes.’

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Clause 102

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:-

THAT clause 102 of the Bill be amended –

- (a) in sub-clause (5) by deleting paragraph (a) and substituting therefor the following new paragraph:

‘(a) the former boards of the Kenya National Highways Authority, the Kenya Rural Roads Authority and the Kenya Urban Roads Authority shall remain in place following the commencement of this Act until the authorities contemplated under this Act are duly constituted.’

Clauses 103 and 104

*(Question that Clauses 103 and 104
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

First Schedule

*(Question that the First Schedule
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division at the end.

Second Schedule

*(Question that the Second Schedule
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Third Schedule

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:

THAT, the Third Schedule of the Bill be amended—

(a) in the marginal note by deleting the words ‘sec 6(2)(i)’ and substituting therefor with the numeration ‘Sec 6(2)(1)’.

The Temporary Chairperson (Sen. Nyamunga): There is also other proposed amendments by Sen. Omogeni.

Sen. Omogeni: Madam Temporary Chairperson, I beg to move:

THAT, the Third Schedule to the Bill be amended in the proposed amendments to the Kenya Roads Board Act, No. 7 of 1999 by –

(a) inserting the following amendment immediately after the proposed amendment to section 17 -

s.17(2) Delete and substitute therefor the following new subsection –

(2) The Constituency Roads Committee shall comprise of

—
(a) two members from the respective Constituency Development Fund Committee;

(b) two officers serving in the office of the county Senator;

(c) the county Senator;

(d) the Member of Parliament for the Constituency;

(e) a representative of the Kenya National Secondary Roads Authority in the region, who shall be the Secretary to the Committee;

(f) a representative from the Ministry responsible for planning;

(g) the respective County Commissioner or his representative; and

- (h) two members co-opted by the Committee to represent such special interests with regard to roads as the committee may determine from time to time, and who shall not have voting rights;
 - (b) deleting the proposed amendment to section 17(2)(c);
 - (c) deleting the proposed amendment to section 17(2)(e);
 - (d) deleting the proposed amendment to section 17(3) and (4) and substituting therefor –
- s. 17(3) Delete and substitute therefor the following new subsection –

(3) The Constituency Roads Committee shall designate two of the members appointed under subsection (2)(a) and (b) to be the Chairman and Vice Chairman of the Committee respectively, and any two members from subsection (2)(a) and (b) designated by the Committee and the Kenya Rural Roads Authority accountant shall be the signatories to the Constituency Roads Fund account established by the constituency.

s.17(4) Delete the words “Kenya Rural Roads Authority” whenever it appears and substitute therefor with “Kenya National Secondary Roads Authority”

(e) inserting the following amendment immediately after the proposed amendment to section 17A -

s.17A(2) Delete paragraph (a) and substitute therefor the following new paragraphs –

(a) one representative of the Constituency Development Fund Committee who is a member of the Constituency Roads Committee

(aa) two officers serving in the office of the county Senator who are members of the Constituency Roads Committee.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 2

Sen. Wamatangi: Madam Temporary Chairperson, I beg to move:

THAT, Clause 2 of the Bill be amended—

(a) by deleting the definition of public roads and substituting therefor the new definition-

“Public Road” means all roads falling under the classifications under Schedule I and any other subsequently classified roads”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Title and Clause 1

*(Question, that the Title and Clause 1
be part of the Bill, proposed)*

Division will be at the end.

PROGRESS REPORTED

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Chairperson, pursuant to Standing Order No.142, I beg to move that the Committee do report progress on its consideration of The Kenya Roads Bill (National Assembly Bill No.47 of 2017) and seek leave to sit again tomorrow.

Sen. Wamatangi seconded.

(Question proposed)

(Question put and agreed to)

[The Temporary Chairperson (Sen. (Nyamunga) left the Chair]

[The Temporary Chairperson (Sen. Lelegwe) in the Chair]

THE ENERGY BILL (NATIONAL ASSEMBLY BILLS NO. 50 OF 2017)

The Temporary Chairperson (Sen. Lelegwe): Hon. Senators, we are now on The Energy Bill (National Assembly Bills No. 50 of 2017).

Clause 3

(Question, that Clause 3 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 4

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 4 of the Bill be amended in sub-clause (1) by inserting the words “Council of County Governors and other” immediately after the words “consultation with the”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 5

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 5 of the Bill be amended in sub-clause (1) by inserting the words “Council of County Governors and other” immediately after the words “consultation with the”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clauses 6, 7 and 8

*(Question, that Clause 6, 7 and 8
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 9

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 9 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) There is established the Energy Regulatory Commission hereinafter referred to as the Commission.

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “this Act the” and substituting therefor the word “Commission”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 10

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Bill be amended by deleting clause 10 and substituting therefor the following new clause –

Functions of the
Commission.

10. The functions of the Commission shall be to—
- (a) regulate —
- (i) generation, importation, exportation, transmission, distribution, supply and use of electrical energy with the exception of licensing of nuclear facilities;
 - (iii) production, conversion, distribution, supply, marketing and use of renewable energy; and
 - (iv) exploration, extraction, production, processing, transportation, storage exportation, importation and sale of coal bed methane gas and other energy forms;
- (b) protect consumer, investor and other stakeholder interests;
- (c) provide such information and statistics to the Cabinet Secretary as the Cabinet Secretary may from time to time require;
- (d) collect and maintain energy data;
- (e) develop guidelines on applicable treaties, conventions and protocols affecting the energy sector in consultation with other statutory authorities except those relating to nuclear energy;
- (f) coordinate the development and implementation of a national energy efficiency and conservation action plan, in consultation with relevant statutory authorities and other stakeholders;
- (g) develop testing and certification procedures, in conjunction with relevant statutory agencies, for certification and testing for energy consumption of equipment and appliances;
- (h) ensure, in collaboration the Kenya Bureau of Standards, that only energy efficient and cost effective appliances and equipment are imported into the country;
- (i) certify energy managers and license energy auditors;
- (j) promote, in consultation with the Kenya National Accreditation Service, the establishment of accredited laboratories for energy efficiency; and
- (k) perform any other function that is incidental or consequential to its functions under this Act or any other written law.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 11

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:
THAT, Clause 11 be amended by –

(a) deleting the introductory clause and substituting therefore the following new clause –

11. The Commission shall have all the powers necessary for the performance of its functions under this Act and in particular, the Commission shall have the power to –

- (b) deleting paragraph (m);
- (c) deleting paragraph (n);
- (d) deleting paragraph (o);
- (e) deleting paragraph (p); and
- (f) deleting paragraph (q).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 12

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 12 be amended in sub-clause (1) by–

(a) deleting the introductory clause and substituting therefor the following new clause –

12. The management of the Commission shall vest in a Board of Directors of the Commission consisting of –

- (b) deleting paragraph (c); and
- (c) deleting paragraph (e) and substituting therefore the following new paragraph

–
(e) three county executive committee members responsible for energy nominated by the Council of County Governors;

(d) deleting the word “five” appearing at the beginning of paragraph (g) and substituting therefore the word “three”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 13

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 13 of the Bill be amended by –

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) The Board shall, subject to the approval of the Cabinet Secretary, appoint a Director General who shall be the chief executive officer of the

Commission and shall, subject to the directions of the Board, be responsible for the day to day management of the Commission.

(b) by deleting sub-clause (5) and substituting the following new sub-clause –
(5) The Director General shall be an ex-officio member of the Commission but shall have no right to vote at any meetings of the Commission.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 14

(Question, that Clause 14 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 15

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 15 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “reports of the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 16

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Bill be amended by deleting Clause 16 and substituting therefore the following new clause –

Staff of the Commission.

16. The Commission may in consultation with the Public Service Commission, appoint such staff as it may require for the proper discharge of its functions under this Act, on such terms and conditions of service as the Commission may determine.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 17

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 17 of the Bill be amended by deleting the word “Authority” appearing immediately after the word “The” and substituting therefore the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 18

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Bill be amended by deleting clause 18 and substituting therefor the following new clause –
Protection from personal liability.

16. A matter or thing or an act done by a member of the Board or an officer, employee or agent of the Commission shall not, if the matter or thing is done bona fide for executing the functions, powers or duties of the Commission, render the members of the Board, officer, employee or agent or any person acting on lawful directions of the Commission personally liable to any action, claim or demand whatsoever.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 19

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 19 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “not relieve the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 20

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Bill be amended by deleting clause 20 and substituting therefor the following new clause –

Funds of the Commission.

20. (1) The funds of the Commission shall consist of—
- (a) levies not exceeding one half of a percent on the sales of electricity products;
 - (b) licence fees;
 - (c) such monies or assets as may accrue to or vest in the Commission in the course of the exercise of its powers or the performance of its functions under this Act;
 - (d) such monies as may be provided by Parliament for the purposes of the Commission;
 - (e) any revenues generated from any proprietary interest held by the Commission whether movable or immovable;
 - (f) interest from bank deposits; and
 - (g) all monies from any other source provided for or donated or lent to the Commission:
- (2) Any monies collected by the Commission including levies, fines and penalties in exercise of its functions shall be paid into the Consolidated Fund.
- (3) Any funds retained by the Commission shall make part of the funds of the Commission by way of appropriation.
- (4) There shall be paid out of the funds of the Commission, all expenditure incurred by the Commission in the exercise of its powers or the performance of its functions under this Act.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 21

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 21 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) The Commission may, by resolution either generally or in any particular case delegate to any committee of the Commission or to any member, officer, employee, self-regulated organization or agent of the Commission, the exercise of any of the powers or the performance of any of its functions or duties.

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “appointed by the” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(d) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “not prevent the” and substituting therefor the word “Commission”;

(e) in sub-clause (5) by deleting the word “Authority” appearing immediately after the words “such by the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 22

(Question, that Clause 22 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 23

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 23 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “decision of the” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(d) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “orders of the” and substituting therefor the word “Commission”;

(e) in sub-clause (5) by deleting the word “Authority” appearing immediately after the words “Where the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 24

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 24 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “decision of the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 25

(Question, that Clause 25 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 26

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 26 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “possessing” appearing immediately after the words “other persons” and substituting therefor the words “appointed by the Cabinet Secretary and who possess”;

(b) in sub-clause (4) by deleting the words “Vice Chairperson” appearing immediately after the words “The Chairperson”;

(c) by deleting sub-clause (11) and substituting therefor the following new sub clause –

(11) After carrying out the interviews, the selection panel shall select three persons qualified to be appointed as members of the Tribunal for each vacant position and shall –

(a) in the case of appointment to the position of chairperson, submit the names to the President; and

(b) in the case of appointment to the position of a member appointed under (1)(b), submit the names to the Cabinet Secretary.

(d) in sub-clause (12) by deleting the words “The Cabinet Secretary” appearing at the beginning of the sub-clause and substituting

therefor the words “The President or the Cabinet Secretary, as the case may be”;

(e) in sub-clause (13) by deleting the words “the Cabinet Secretary” appearing immediately after the word “Where” and substituting therefor the words “The President or the Cabinet Secretary, as the case may be”;

(f) in sub-clause (15) by deleting the words “the Cabinet Secretary” appearing immediately after the words “in this section” and substituting therefor the words “the President or the Cabinet Secretary, as the case may be”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 27

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 27 of the Bill be amended in paragraph (d) by inserting the words “by notice in writing to the appointing authority” immediately after the words “resigns from office”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clauses 28-35

(Question, that Clauses 28-35 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 36

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

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

(4) The Tribunal shall have appellate jurisdiction over the decisions of the Commission and any licensing authority and in exercise of its functions may refer any matter back to the Commission or any licensing authority for reconsideration.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clauses 37-39

*(Question, that Clauses 37-39
be part of the Bill, proposed)*

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 40

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 40 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “decisions of the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 41

(Question, that Clause 41 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will come at the end.

Clause 42

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 42 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “decisions of the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clauses 43-57

(Question, that Clauses 43-57 be part of the Bill, proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 58

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 58 of the Bill be amended in sub-clause (1) by –

- (a) deleting the words “not more than four other” appearing at the beginning of the introductory clause of paragraph (e) and substituting therefor the words “two”;
- (b) by inserting the following new paragraph immediately after paragraph (e) – (f) two persons with knowledge and experience in matters relating to energy nominated by the Council of Governors.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clauses 59-74

(Question, that Clauses 59-74 be part of the Bill, proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 75

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 75 of the Bill be amended –

- (a) in sub-clause (1) by inserting the words “in collaboration with the Council of County Governors” immediately after the words “Cabinet Secretary shall”;
- (b) by inserting the following new sub-clause immediately after sub-clause (2) –

(3) The Cabinet Secretary shall, in the carrying out of the functions and exercise of powers under sub-section (2), consult with, and collaborate with the respective county governments.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 76

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 76 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (g) –

- (h) two persons with knowledge and experience in matter relating to renewable energy nominated by the Council of County Governors.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clauses 77 and 78

*(Question, that Clauses 77 and 78
be part of the Bill, proposed)*

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 79

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 79 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause –
(2) A person granted authority under subsection (1) shall –
(i) comply with the provisions of Part VII of this Act; and
(ii) before commencing with the activities, hold an informational meeting with the local community to sensitize the community on the activities to be undertaken pursuant to the authorization.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clauses 80 and 81

*(Question, that Clauses 80 and 81
be part of the Bill, proposed)*

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 82

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 82 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “advice of the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clauses 83 and 84

(Question, that Clauses 83 and 84

be part of the Bill, proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 85

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 85 of the Bill be amended –

(a) by deleting sub-clause (3) and substituting therefor the following new sub-clause –

(3) Any royalty received by the National Government from geothermal energy produced under this section shall be paid into the Treasury of the national Government and apportioned between the National Government, county government and the local community as follows –

(a) the county government's share shall be equivalent to 20 percent of the royalties;

(b) the local community's share shall be equivalent 10 ten percent of the royalties and shall be payable through a trust fund managed by a board of trustees established by the local community in accordance with regulations under this Act; and

(c) the remaining seventy percent shall be treated as national revenue to be dealt with in accordance with Article 203 of the Constitution.

(b) in sub-clause (4) by inserting the words “county governments in whose county the resource is to be exploited and” immediately after the words “consultation with the”;

(c) in sub-clause (5) by inserting the words “upon consultation with the Council of County Governors and the Renewable Energy Resource Advisory Committee” immediately after the words “Cabinet Secretary shall”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clauses 86-88

*(Question, that Clauses 86-88
be part of the Bill, proposed)*

Hon. Senators, Division will be at the end.

Clause 89

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 89 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “recommendation of the” in sub-clause (1) and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clauses 90 and 91

*(Question, that Clauses 90 and 91
be part of the Bill, proposed)*

Hon. Senators, Division will be at the end.

Clause 92

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 92 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “recommendation of the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 93

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 93 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “recommendation of the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 94

*(Question, that Clause 94
be part of the Bill, proposed)*

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 95

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 95 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) A person who intends to obtain a licence or permit under this Act shall –

(a) make an application to the Commission in the prescribed form; and

(b) submit to the Commission an environmental impact assessment licence obtained under section 63 of the Environmental Management and Co-ordination Act.

(b) in sub-clause (2) by –

(i) deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(ii) deleting the word “Authority” appearing immediately after the words “conditions as the” in paragraph (a) and substituting therefor the word “Commission”;

(c) in sub-clause (2) by –

(i) deleting the word “Authority” appearing immediately after the words “Where the” in the introductory clause and substituting therefor the word “Commission”;

(ii) deleting the word “Authority” appearing immediately after the words “or permit the” in paragraph (b) and substituting therefor the word “Commission”;

(d) by deleting sub-clause (5) and substituting therefor the following new sub-clause –

(5) If the Commission is satisfied that the applicant continues to meet the requirements for the issue of the licence or permit, the Commission shall renew the licence or permit.

(e) in sub-clause (6) deleting the word “Authority” appearing immediately after the words “with by the” and substituting therefor the word “Commission”;

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 96

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 96 of the Bill be amended –

(h) in sub-clause (1) by –

(i) deleting the word “Authority” appearing immediately after the words “The” in the introductory clause and substituting therefor the word “Commission”;

(ii) deleting the word “Authority” appearing immediately after the words “recommended by the” in paragraph (c) and substituting therefor the word “Commission”;

(iii) inserting the following new paragraph immediately after paragraph (d) –

(da) the need and level of public participation undertaken by an applicant for a licence to generate electricity using coal under section 94(2)(a);

(ii) deleting the word “Authority” appearing immediately after the words “opinion of the” in paragraph (e) and substituting therefor the word “Commission”;

(i) by inserting the following new sub-clause immediately after sub-clause (1) –

(1A) The Commission shall not grant a licence or permit to an applicant unless the applicant has applied for, and obtained, an environmental impact assessment licence in accordance with section 63 of the Environmental Management and Co-ordination Act.

(j) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “conditions as the” in introductory clause and substituting therefor the word “Commission”;

(k) by deleting sub-clause (3) and substituting therefor the following new sub-clause –

(3) Where a permit contains conditions prescribed in subsection (2) (d), no person shall, before the conditions are satisfied, use any works the execution of which was authorised by the permit, except to the extent specified in a notice given by the Commission to the licensee specifying the extent to which the works may be used, notwithstanding that some of the conditions have not been satisfied and such permit may, at any time, be revoked by the Commission in a subsequent notice in the Gazette.

(l) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “given by the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 97

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 97 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “permit and the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “Where the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 98

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 98 of the Bill be amended –

- (a) in the introductory clause by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;
- (b) in paragraph (b) by deleting the word “Authority” appearing immediately after the words “developed by the” and substituting therefor the word “Commission”;
- (c) in paragraph (c) by deleting the word “Authority” appearing immediately after the words “recommended by the” and substituting therefor the word “Commission”;
- (d) in paragraph (d) by deleting the word “Authority” appearing immediately after the words “recommended by the” and substituting therefor the word “Commission”;
- (e) in paragraph (j) by deleting the word “Authority” appearing immediately after the words “matter that the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 99

*(Question, that Clause 99
be part of the Bill, proposed)*

Hon. Senators, Division will be at the end.

Clause 100

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 100 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “form as the” in the introductory clause and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “issued by the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 101

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 101 be amended by deleting the word “Authority” appearing immediately after the word “lodged with the” in sub-clause (1) and substituting therefor the word “Commission”;

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 102

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 102 of the Bill be amended –

(a) in sub-clause (1) by –

(i) deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(ii) deleting the word “Authority” appearing immediately after the words “period which the” in paragraph (a) and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “or permit the” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting paragraph (b) and substituting therefor the following new paragraph –

(b) specify the acts, omissions or other facts which, in the opinion of the Commission or the licensing agent, constitute a contravention of the conditions of the licence or permit or requirements of the Act, and the reasons why the Commission is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and

(d) in sub-clause (4) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 103

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Bill be amended by deleting clause 103 and substituting therefor the following new sub-clause –

103. Where, upon application, it is shown to the satisfaction of the Commission that a licence or permit has been lost, destroyed or defaced, the Commission shall, upon payment of the prescribed fee, issue a duplicate licence or permit to the licensee.

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 104

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 104 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “consent of the” in the introductory clause and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(d) in sub-clause (5) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 105

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 105 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(b) in sub-clause (3) by deleting paragraph (b) and substituting therefor the following new paragraph –

(b) an employee of the Commission or person authorised in writing by the Commission;

(Question of the amendment proposed)

The Temporary Chairpersons (Sen. Lelegwe): Division will be at the end.

Clause 106

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 106 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “action of the” in the introductory clause and substituting therefor the word “Commission”;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 107

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 107 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “writing to the” and substituting therefor the word “Commission”;

(b) in sub-clause (3) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(c) in sub-clause (5) by deleting the word “Authority” appearing immediately after the words “Where the” and substituting therefor the word “Commission”;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 108

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 108 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “to subsection (2) the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “Where the” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “the” and substituting therefor the word “Commission”;

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 109

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 109 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “period which the” and substituting therefor the word “Commission.”

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 110

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 110 of the Bill be amended –
(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “a permit the” and substituting therefor the word “Commission”;
(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “the works the” and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 111

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 111 of the Bill be amended by deleting sub-clause (2) and substituting therefore the following new sub-clause –
(2) Where any licensee willfully delays to comply with the terms of the contract pursuant to sub-section (1), the Commission may compel the licensee to evacuate the coal products when appropriate and in the event of the licensee failing to comply with such direction the

Commission may order disposal of such products held by a common user logistic facility and impose such penalties and fines as may be prescribed in regulations.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 112

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 112 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “approved by the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “under subsection (1) the” in the introductory clause and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 113

(Question, that Clause 113 be part of the Bill, proposed)

Hon. Senators, the Division will be at the end.

Clause 114

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 114 of the Bill be amended –

(a) by deleting sub-clause (2) and substituting therefore the following new sub-clause –

(2) In the event of a fire, explosion, injury or fatality occurring in the course of operating a facility for energy production using coal, either by accident or through negligence, the operator of the facility shall forthwith clean up the polluted or damaged environment, at the operator’s own expense, to the satisfaction of Commission and the National Environment Management Authority established under section 7 of the Environmental Management and Co-ordination Act.

(b) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “in subsection (2) the” and substituting therefor the word “Commission”;

(c) in sub-clause (5) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 115

(Question, that Clause 115 be part of the Bill, proposed)

Hon. Senators, Division will be at the end.

Clause 116

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 116 of the Bill be amended by deleting the introductory clause and substituting therefor the following new clause –

116. Without limiting the generality of section 208, the Cabinet Secretary in consultation with the Council of County Governors may, on the recommendation of the Commission, make regulations for the use of coal for energy production relating to—

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 117

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 117 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “may be to the” and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 118

(Question, that Clause 118 be part of the Bill, proposed)

Hon. Members, Division will be at the end.

Clause 119

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 119 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “made to the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(c) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “addressed to the” in the introductory clause and substituting therefor the word “Commission”;

(d) in sub-clause (5) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 120

(Question, that Clause 120 be part of the Bill, proposed)

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, the Bill be amended by deleting clause 120 and substituting therefor the following new clause –

120. The Commission may hear any objections in public, at a time and place of which not less than fifteen days’ notice shall be given to the applicant and to every objector and the Commission shall make known its decision regarding any objection within thirty days after the hearing.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 121

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 121 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(d) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “decision of the” in the introductory clause and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 122

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 122 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “form as the” in the introductory clause and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “issued by the” in the introductory clause and substituting therefor the word “Commission”;

(c) in sub-clause (4) by

(i) deleting the word “Authority” appearing immediately after the words “approved by the” in paragraph (a) and substituting therefor the word “Commission”;

(ii) deleting the word “Authority” appearing immediately after the words “specified by the” in paragraph (b) and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 123

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 123 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “consent of the” in the introductory clause and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “action as the” and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 124

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 124 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “consent of the” in the introductory clause and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(d) in sub-clause (5) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 125

Sen. Olekina: Mr. Temporary Chairman, I beg to move-
THAT, Clause 125 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause–

(1) If a licensee fails to meet his obligations under this Act, the Commission shall serve upon him a notice in writing to meet those obligations within fourteen days or such longer period but not exceeding sixty days as the Commission may determine.

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “the notice the” in the introductory clause and substituting therefor the word “Commission”;

(c) by deleting sub-clause (3) and substituting therefor the following new sub-clause–

(3) The appointment of a statutory manager under subsection (2) shall be for such period, not exceeding twelve months, as the Commission may specify in the instrument of appointment and may be extended upon the application of the Commission if such extension appears to the court to be justified and such extension shall be notified to all interested parties.

(d) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “subsection (2) the” and substituting therefor the word “Commission”;

(e) in subsection (5) by deleting the word “Authority” appearing immediately after the words “consultation with the” in paragraph (b) and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 126

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 126 of the Bill be amended –

(a) in sub-clause (1) by –

(i) deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(ii) deleting the word “Authority” appearing immediately after the words “period which the” in paragraph (a) and substituting therefor the word “Commission”;

(iii) deleting the word “Authority” appearing immediately after the words “upon inquiry the” in paragraph (d) and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “this section the” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting paragraph (b) and substituting therefor the following new paragraph –(b) specify the acts, omissions or other facts which, in the opinion of the Commission, constitute a contravention of the conditions or the Act, and the reasons why the Commission is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and

(d) in sub-clause (4) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(e) in sub-clause (5) by deleting the word “Authority” appearing immediately after the words “or revoked the” and substituting therefor the word “Commission”.

(Question of amendment proposed)

Clause 127

Sen. Olekina: Mr. Temporary Chairman, I beg to move-

THAT, Clause 127 of the Bill be amended by deleting sub-clause (1) and substituting therefore the following new sub-clause –

(1) Where, upon application, it is shown to the satisfaction of the Commission that a license has been lost, destroyed or defaced; the Commission shall issue a duplicate license.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 128

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 128 of the Bill be amended –

(a) in sub-clause (1) by –

(i) deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(ii) deleting the word “Authority” appearing immediately after the words “information as the” in paragraph (e) and substituting therefor the word “Commission”;

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause–(2) In entering any provision in the register, the Commission shall have regard to the need for excluding, so far as is practicable any matter which relates to the affairs of any person, where publication of that matter would or might, in the opinion of the Commission, be prejudicial to the interests of that person or the public interest.

(c) By deleting sub-clause (3) and substituting therefor the following new sub-clause–

(3) The contents of the register shall be published on the website of the Commission and shall be available for inspection by the public, during such hours and subject to the payment of such fee as may be prescribed by the Commission.

(d) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “prescribed by the” and substituting therefor the word “Commission”;

(e) by deleting sub-clause (4) and substituting therefor the following new sub-clause– (4) A person may, on the payment of such fee as may be prescribed, require the Commission to supply him with a copy of, or extract of, any part of the register, being a copy or extract which is certified by the Commission to be a true copy or extract.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 129

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 129 of the Bill be amended – (a) in sub-clause (1) by –

(i) deleting the introductory clause and substituting therefor the following new clause –

(1) For the purposes of this Act, where a person holds a license or licenses, the accounts of each undertaking under each license shall, unless specifically exempted by the Commission, be subject to the provisions of this Act, and be kept separate and distinct and in the manner and form prescribed by the Commission:

(ii) in paragraph (a) of the proviso by deleting the word “Authority” appearing immediately after the word “the” and substituting therefor the word “Commission”

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “accounts to the” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “request of the” and substituting therefor the word “Commission”;

(d) in sub-clause (4) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 130

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 130 of the Bill be amended –

(a) in sub-clause (1) by –

(i) deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;

(ii) deleting paragraph (b) and substituting therefor the following new paragraph -(b) require a licensee to furnish to the Commission, books, accounts, records and other documents in such form as the Commission may demand.

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “authorized by the” and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 131

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 131 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “recommendation of the” and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 132

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 132 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “proposal to the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clauses 133-135

(Question, that Clauses 133-135 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 136

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 136 of the Bill be amended in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "to enable the" and substituting therefor the word "Commission".

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 137

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 137 of the Bill be amended by deleting the word "Authority" appearing immediately after the words "report to the" and substituting therefor the word "Commission".

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 138

Sen. Olekina: Mr. Temporary Chairman, I beg to move-

THAT, Clause 138 of the Bill be amended –

(a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

(b) in sub-clause (3) by deleting the word "Authority" appearing immediately after the words "recommendation of the" in the introductory clause and substituting therefor the word "Commission";

(c) in sub-clause (7) by –

(i) deleting the word "Authority" appearing immediately after the words "referred to the" in the introductory clause and substituting therefor the word "Commission";

(ii) deleting the word "Authority" appearing immediately after the words "decision of the" and substituting therefor the word "Commission".

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clauses 139 and 140

(Question, that Clauses 139 and 140 be part of the Bill, proposed)

Clause 141

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 141 of the Bill be amended by deleting the word
“Authority” appearing immediately after the words “report to the” and
substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 142

Sen. Olekina: Mr. Temporary Chairperson, I beg to move-
THAT, Clause 142 of the Bill be amended in sub-clause (6) by
deleting the word “Authority” appearing immediately after the words
“determined by the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clauses 143 and 144

(Question, that Clauses 143 and 144 be part of the Bill, proposed)

Clause 145

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 145 of the Bill be amended –
(a) in sub-clause (1) by deleting the word “Authority” appearing
immediately after the word “The” and substituting therefor the word
“Commission”;
(b) in sub-clause (3) by deleting the word “Authority” appearing
immediately after the words “specified by the” and substituting therefor the word
“Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 146

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 146 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 147

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 147 of the Bill be amended –
(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “approved by the” and substitute therefor the word “Commission”;
(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “under subsection (1) the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 147

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 148 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “contractor by the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 148

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 148 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “contractor by the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 149

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 149 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “application to the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 150

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 150 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “application to the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 151

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 151 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “authorized by the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clauses 151-158

(Question, that Clauses to 151-158 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 159

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 159 of the Bill be amended –

(a) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “referred to the” and substituting therefor the word “Commission”;

(b) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “referred to the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 160

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 160 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “approved by the” in the proviso and substituting therefor the word “Commission”;

(b) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “referred to the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 161

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 161 of the Bill be amended by –

(a) renumbering the existing provision as sub-clause (1);

(b) inserting the following new sub-clause immediately after the new sub-clause (1)–

(3) Parliament may, as a condition for, or in addition to any appropriation it may make under subsection (1), impose such conditions as it may consider necessary to avoid the recurrence of the default.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 162

(Question, that Clause 162 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 163

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 163 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “submitted to the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “submitted to the” and substituting therefor the word “Commission”;

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “under subsection (1) the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 164

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 164 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “submitted to the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 165

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 165 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “prescribed by the” and substituting therefor the word “Commission”;

(b) in sub-clause (3) by –

- (i) deleting the word “Authority” appearing immediately after the words “filed with the” in the introductory clause and substituting therefor the word “Commission”;
- (ii) deleting the word “Authority” appearing immediately after the words “Provided that the” in the proviso and substituting therefor the word “Commission”;
- (c) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “filed with the” and substituting therefor the word “Commission”;
- (d) in sub-clause (7) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 166

- Sen. Olekina:** Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 166 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause –
- (4) The Cabinet Secretary shall –
 - (a) sensitize consumers on the compensation mechanism provided under this section; and
 - (b) make regulations to give effect to this section within six months of the coming into force of this Act.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 167

- Sen. Olekina:** Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 167 of the Bill be amended in sub-clause (1) –
- (a) by deleting the word “Authority” appearing immediately after the words “recommendation of the” in the introductory clause and substituting therefor the word “Commission”;
 - (b) by deleting the word “Authority” appearing immediately after the words “proceedings before the” in paragraph (m) and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 168

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 168 of the Bill be amended in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “period as the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clauses 169 and 170

(Question, that Clauses 169 and 170 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 171

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 171 of the Bill be amended –
(a) in sub-clause (1) by deleting the proviso; and
(b) inserting the following new sub-clause immediately after sub-clause (1)–

(1A) Where the owner of a property cannot be traced, the applicant shall –

(a) carry out a search in the Ministry responsible for matters relating to land with respect to the land in order to determine the name of the person in whom the land is registered;

(b) send a notice by registered post to the last known address of the said person; and

(c) issue a thirty notice in the Gazette and through an advertisement in at least two newspapers of nationwide circulation and an announcement in a vernacular radio station of local coverage for a period of two weeks.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clauses 172-177

(Question, that Clauses 172-177 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 178

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 178 of the Bill be amended in sub-clause (1) by inserting the words “the Environmental Management and Co-ordination Act” immediately after the words “provided in this Act”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 179

(Question, that Clause 179 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 180

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 180 of the Bill be amended in sub-clause (2) by –
(a) deleting the phrase “Authority for determination and the Authority” appearing immediately after the words “referred to the” and substituting therefor the phrase “Commission for determination and the Commission”;
(b) deleting the word “Authority” appearing immediately after the words “decision of the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us move on to the next clause.

Clauses 181-186

(Question, that Clauses 181-186 be part of the Bill, proposed)

Hon. Senators, Division will be at the end. Let us move on to the next clause.

Clause 187

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 187 of the Bill be amended by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the words “Commission in collaboration with county governments”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 188

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move—
THAT, Clause 188 of the Bill be amended —

(a) in sub-clause (1) by deleting the word “Authority” appearing at the beginning of the sub-clause and substituting therefor the word “Commission”;

(b) by deleting sub-clause (4) and substituting therefor the following new sub-clause —

(4) If the Commission determines that the owner of the building is not able to comply without financial or technical assistance and that the activities required to be in compliance may be eligible for assistance from an identified source, the Commission may decide to give additional grace period to allow the owner to access assistance from the identified source.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 189

(Question, that Clause 189 be part of the Bill, proposed)

Clause 190

Sen. Olekina: Mr. Temporary Chairperson, Sir, I beg to move—
THAT, Clause 190 of the Bill be amended—

(a) by deleting the word “Authority” appearing immediately after the words “recommendation by the” in the introductory clause and substituting therefor the word “Commission”;

(b) in paragraph (f) by deleting the word “Authority” appearing immediately after the words “recommendation by the” in the proviso and substituting therefor the word “Commission”;

(c) in paragraph (i) by deleting the word “Authority” appearing immediately after the words “furnish to the” and substituting therefor the word “Commission”;

(d) in paragraph (j) by deleting the word “Authority” appearing immediately after the words “year to the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 191

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 191 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 192

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 192 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “recommendation by the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 193

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 193 of the Bill be amended—

(a) in paragraph (a) by deleting the word “Authority” appearing immediately after the words “approval of the” and substituting therefor the word “Commission”;

(b) in paragraph (g) by deleting the word “Authority” appearing immediately after the words “furnish to the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clauses.

Clauses 194-197

(Question, that Clauses 194-197 be part of the Bill, proposed)

Hon. Senators, Division will be at the end. Let us go to the next clause.

Clause 198

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 198 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “recommendation by the” and substituting therefor the phrase “Commission and in consultation with the Council of County Governors”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “imposed by the” in paragraph (y) and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 199

(Question, that Clause 199 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 200

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 200 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “under subsection (1) the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 201

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move—
THAT, Clause 201 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “complied with the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 202

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move—
THAT, Clause 202 of the Bill be amended—

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

(1) Where the Commission is of the view that any person including any public body is consuming unacceptable levels of energy in their respective premises or installations, over and above the benchmarks established by the Commission under this Act, such person shall be called upon to submit to the Commission a detailed audit report compiled by an accredited energy auditor and a detailed remedial plan of action proposing measures to be taken by such person to reduce the energy consumption to acceptable levels.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause -

(2) The failure to submit a detailed audit report and a detailed remedial plan of action when called upon to do so by the Commission under subsection (1) and the failure to implement such plan on approval by the Commission shall be an offence under this Act.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end. Let us go to the next clause.

Clause 203

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 203 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause:–

(2) Every person who is issued with a certificate under subsection (1) shall be required to sit for such examinations at such periods as the Commission may prescribe and where the Commission so requests, submit performance reviews at such intervals as specified by the Commission.

(c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 204

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 204 of the Bill be amended–

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “report to the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 205

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-
THAT, Clause 205 of the Bill be amended–

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “under subsection (1) the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 206

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 206 of the Bill be amended—

(a) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “program to the” and substituting therefor the word “Commission”;

(b) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “submitted to the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 207

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 207 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “of subsection (1) the” in the introductory clause and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 208

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 208 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “recommendation of the” and substituting therefor the word “Commission”;

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(2) The regulations to be made under this Act may be formulated by the Commission on its own motion or may be proposed to the Commission by any licensee or person.

(c) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “satisfaction of the” and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 209

(Question, that Clause 209 be part of the Bill, proposed)

Hon. Senators, the Division will be at the end.

Clause 210

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move—

THAT, Clause 210 of the Bill be amended by deleting the phrase “Authority, committee, agent or an officer acting on behalf of the Authority” appearing immediately after the words “or to the” and substituting therefor the phrase “Commission, committee, agent or an officer acting on behalf of the Commission”.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 211

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move—

THAT, Clause 211 of the Bill be amended in the proviso by deleting the word “Authority” appearing immediately after the words “manner which the” in paragraph (b) and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clauses 212 and 213

*(Question, that Clauses 212 and 213
be part of the Bill, proposed)*

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 214

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT Clause 214 of the Bill be amended:-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause:-

(1) A person engaged in any undertaking or activity pursuant to a licence under this Act shall notify the respective licensing authority and the Commission within forty eight hours in writing, in the form and manner prescribed by the Commission, of any accident or incident causing loss of life, personal injury, explosion, oil spill, fire or any other accident or incident causing harm or damage to the environment or property which has arisen in Kenya or within Kenya's Exclusive Economic Zone or Outer Continental Shelf.

(b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "authority or the" and substituting therefor the word "Commission".

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 215

*(Question, that Clause 215 be part
of the Bill, proposed)*

Hon. Senators, Division will be at the end.

Clause 216

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 216 of the Bill be amended in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "imposed by the" in the paragraph (f) and substituting therefor the word "Commission".

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clauses 217-219

(Question, that Clauses 217-219 be part of the Bill, proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 220

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:-

THAT the Bill be amended by deleting Clause 220 and substituting therefor the following new clause-
Prosecution of offences.

220. The Director Public Prosecutions shall, on the request of the Commission, appoint any officer of the Commission or an advocate of the High Court to be a public prosecutor for the purposes of prosecuting offences under this Act.

(Question of the amendment proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clauses 221-223

(Question, that Clauses 221-223 be part of the Bill, proposed)

The Chairperson (Sen. Lelegwe): The Division will be at the end.

Clause 224

Sen. Olekina: Mr. Temporary Chairman, I beg to move:

THAT, Clause 224 of the Bill be amended in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “granted by the” in paragraph (b) and substituting therefor the word “Commission”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division at the end.

Clause 225

(Question, that Clause 225 be part of the Bill, proposed.)

The Temporary Chairperson (Sen. Lelegwe): Division at the end.

First Schedule

(Question, that the First Schedule be part of the Bill, proposed.)

Hon. Senators, Division will be at the end.

Second Schedule

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Second Schedule to the Bill be amended –

(a) in paragraph 1 by deleting the word “Authority” appearing immediately after the words “member of the” in sub-paragraph (1) and substituting therefor the word “Commission”;

(b) in paragraph 2 by deleting the word “Authority” appearing immediately after the words “composition of the” and substituting therefor the word “Commission”;

(c) in paragraph 4 by –

(i) by deleting the word “Authority” appearing immediately after the words “meetings of the” in sub-paragraph (1)(d) and substituting therefor the word “Commission”;

(ii) deleting sub-paragraph (1)(e) and substituting therefor the following new sub-paragraph –

(e) failure to disclose to the Commission, Tribunal or Board any interest in any contract or matter before the Commission, Tribunal or Board;

(d) in paragraph 5 by deleting the word “Authority” appearing immediately after the words “Managing Director the” in the introductory clause to sub-paragraph (1) and substituting therefor the word “Commission”;

(e) in paragraph 7 by –

(i) deleting sub-paragraph (1) and substituting therefor the following new subparagraph –

(1) At least three months before the commencement of each financial year, the Commission, Tribunal, Corporation or Agency, as the case may be, shall cause to be prepared estimates of the revenue and expenditure of the Commission, the Tribunal or the Agency for that year.

(ii) in sub-paragraph (2) by –

(A) deleting the word “Authority” appearing immediately after the words “expenditure of the” in the introductory clause and substituting therefor the word “Commission”;

(B) deleting the word “Authority” appearing immediately after the words “staff of the” in sub-sub-paragraph (a) and substituting therefor the word “Commission”;

- (iii) in sub-paragraph (3) by deleting the word “Authority” appearing immediately after the words “approved by the” and substituting therefor the word “Commission”;
 - (iv) in sub-paragraph (4) by deleting the word “Authority” appearing immediately after the words “Secretary’s approval the” and substituting therefor the word “Commission”.
- (f) in paragraph 8 by –
- (i) deleting sub-paragraph (1) and substituting therefor the following new subparagraph –
 - (1) The Commission, Tribunal, Corporation or Agency as the case may be, shall keep or cause to be kept proper books of accounts recording all the income and liabilities, expenditure assets, undertakings, funds, activities, contracts, transactions and any other business of the Commission, the Tribunal, the Commission and the Agency respectively.
 - (ii) deleting the word “Authority” appearing immediately after the word “The” in sub-paragraph (2) and substituting therefor the word “Commission”;
 - (iii) deleting the word “Authority” appearing immediately after the words “financial year the” in sub-paragraph (3) and substituting therefor the word “Commission”;
 - (iv) deleting the word “Authority” appearing immediately after the words “appointed by the” in sub-paragraph (4) and substituting therefor the word “Commission”;
 - (v) deleting the word “Authority” appearing immediately after the words “terminated by the” in sub-paragraph (5) and substituting therefor the word “Commission”;
 - (vi) deleting sub-paragraph (8) and substituting therefor the following new subparagraph –
 - (8) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts of the Commission, Tribunal, Corporation or Agency, as the case may be, to the Commission, Tribunal, Corporation or Agency as the case may be, and to the Cabinet Secretary, and in the case of an auditor appointed under subsection (4), the auditor shall submit a copy of the report to the Auditor-General.
 - (vii) deleting the word “Authority” appearing immediately after the words “inspection of the” in sub-paragraph (9) and substituting therefor the word “Commission”;
 - (viii) deleting the word “Authority” appearing immediately after the words “paid by the” in sub-paragraph (12) and substituting therefor the word “Commission”;

(ix) deleting the word “Authority” appearing immediately after the word “The” in sub-paragraph (13) and substituting therefor the word “Commission”;

(x) deleting the word “Authority” appearing immediately after the word “The” in sub-paragraph (14) and substituting therefor the word “Commission”;

(g) by deleting paragraph 9 and substituting therefor the following new paragraph –

9. (1) The common seal of the Commission, Tribunal, Corporation or Agency, as the case may be, shall be kept in such custody as the Commission, the Tribunal or the Board, as the case may be, may direct and shall not be used except on the order of the Commission, the Tribunal or the Board respectively.

(2) The common seal of the Commission, Tribunal, Corporation or Agency, as the case may be, when affixed on a document and duly authenticated shall be judicially and officially noticed unless and until the contrary is proved any necessary order or authorization by the Commission, the Tribunal or the Board, as the case may be, under this section shall be presumed to have been duly given.

(3) The affixing of the common seal of the Commission, Tribunal, Corporation or Agency, as the case may be, shall be authenticated by the signature of the Chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Commission, the Tribunal or Board, as the case may be, may be authenticated by the signature of the Chairperson or the Chief Executive Officer:

Provided that the Commission, the Tribunal or the Board, as the case may be, shall, in the absence of either the Chairperson or the Chief Executive Officer nominate one member to authenticate the seal on behalf of the Chairperson or the Chief Executive Officer.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division at the end.

Third Schedule

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Third Schedule to the Bill be amended by deleting item 1 and substituting therefor the following new item –

1. Energy Regulatory Commission

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division at the end.

Fourth Schedule

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Fourth Schedule to the Bill be amended in paragraph 1 by –

(a) deleting sub-paragraph (a) and substituting therefor the following new subparagraph –

(a) The Energy Regulatory Commission established under section 9 shall be the successor to the Energy Regulatory Commission established by the Energy Act (now repealed) and subject to this Act, all rights, duties, obligations, assets and liabilities of the Energy Regulatory Commission existing at the commencement of this Act shall be automatically and fully transferred to the Energy Regulatory Commission and any reference to the Energy Regulatory Commission in any contract or document shall, for all purposes, be deemed to be a reference to the Energy and Petroleum Regulatory Authority established under section 9.

(b) deleting the word “Authority” appearing immediately after the words “be of the” in paragraph (b) and substituting therefor the word “Commission”; and

(c) deleting the words “and Petroleum Regulatory Authority” appearing immediately after the words “employee of the” in paragraph (d) and substituting therefor the words “Energy Regulatory Commission”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division at the end.

Clause 2, Title and Clause 1

(Question, that Clause 2, the Title and Clause 1 be part of the Bill, proposed.)

The Temporary Chairperson (Sen. Lelegwe): Division at the end.

(Loud consultations)

Order, hon. Members! There is an interjection by Sen. (Eng.) Maina.

Sen. (Eng.) Maina: Thank you, Mr. Temporary Chairman, Sir. I have an interjection. Sen. Olekina is a Member of the Committee. I must put it on record that the amendments should be regarded as his amendments and not the amendments of the Committee.

Can I go on, Mr. Temporary Chairperson, Sir?

The Temporary Chairperson (Sen. Lelegwe): Yes, proceed Sen. (Eng.) Maina.

PROGRESS REPORTED

Sen. (Eng.) Maina: Mr. Temporary Chairman, Sir, pursuant to Standing Order No.148, I beg to move that the Committee do report progress on its consideration of the Energy Bill (National Assembly Bills No. 50 of 2017), and seek leave to sit again tomorrow.

Sen. Pareno seconded.

(Question proposed)

(Question put and agreed to)

THE PETROLEUM BILL (NATIONAL ASSEMBLY
BILLS NO. 48 OF 2017)

The Temporary Chairperson (Sen. Lelegwe): Hon. Senators, we are still in the Committee of the Whole to consider the Petroleum Bill (National Assembly Bills No. 48 of 2017).

Clauses 3 and 4

(Question, that Clauses 3 and 4 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 5

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause –
(2) The Cabinet Secretary consult with the Council of County Governors and shall ensure that relevant stakeholders participate effectively in the making of the national policy on petroleum operations by inserting the words “shall consult with the Council of County Governors and” immediately after the words “The Cabinet Secretary”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 6

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 6 of the Bill be amended in sub-clause (1) by inserting the words “in consultation with the Council of County Governors” immediately after the words “Cabinet Secretary shall”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clauses 7-21

(Question, that Clauses 7–21 be part of the Bill, proposed)

Hon. Senators, Division will be at the end.

Clause 22

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 22 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) –

(1A) The Authority may, where the exploration activity involves drilling or an activity that is likely to alter the land on which the exploration activity is being undertaken, require an applicant to submit, together with the application under subsection (1) an environmental impact assessment license obtained under Section 63 of the Environmental Management and Co-ordination Act.

(Question of the amendment proposed)

Clauses 23-49

(Question, that Clauses 23-49 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will come at the end.

Clause 50

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 50 of the Bill be amended in sub-clause (1) by deleting the proviso appearing at the end of that sub-clause.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will come at the end.

Clauses 51-57

(Question that Clauses 51-57 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will come at the end.

Clause 58

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 58 of the Bill be amended in sub-clause (3) by deleting the word “five” appearing immediately after the words “be equivalent to” and substituting therefor the word “ten”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will come at the end.

Clauses 59-87

(Question, that Clauses 59-87 be part of the Bill, proposed)

Hon. Senators, Division will come at the end.

Clause 88

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 88 of the Bill be amended in paragraph (a) by deleting the word “construction” appearing immediately after the words “works for the” and substituting therefore the words “repair, replacement and rehabilitation”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will come at the end.

Clauses 89-91

(Question, that Clauses 89- 91 be part of the Bill, proposed)

Hon. Members, Division will come at the end.

Clause 92

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 92 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) –

(3) The licensing authority may, by notice in the Gazette, suspend or revoke the license issued to a person who if found liable for an offence under subsection (2).

(4) Where the licensing authority intends to revoke or suspend a permit under this section, it may, at least twenty-one days before the date of the intended revocation or suspension, notify the holder of the permit of

such intention, specifying the reasons thereof, and shall take every precaution to ensure fairness in the exercise of this power.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will come at the end.

Clauses 93-124

(Question, that Clauses 93-124 be part of the Bill, proposed)

Hon. Senators, Division will be at the end. Let us go to the next clause.

Clause 125

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 125 of the Bill be amended –

(a) in paragraph (a) by inserting the words “including the use of local radio stations” immediately after the words “communication strategy”;

(b) by inserting the following new paragraph immediately after paragraph (f) –

(fa) where compensation is payable, to immediate payment of the compensation when such compensation falls due;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Clause 126

(Question, that Clause 126 be part of the Bill, proposed)

Hon, Senators, Division will be at the end.

Clause 127

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 127 of the Bill be amended in paragraph (u) by inserting the words “and restoration” immediately after the words “safety environmental protection”.

(Question of the amendment proposed)

Clause 2

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, Clause 2 of the Bill be amended by –

(a) deleting the definition of the term “Authority” and substituting therefor the following new definition –

“Authority” means Petroleum Regulatory Authority established under section 13A of this Act;

New Clauses

Sen. Olekina: Mr. Temporary Chairman, Sir, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 13 –

Establishment of Petroleum

Regulatory Authority

13A. (1) There is established the Petroleum Regulatory Authority

(2) The Authority is a body corporate with perpetual succession and a common seal and shall be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing and lending money; and

(d) doing or performing all other things or acts for the furtherance of the provisions of the Act which may be lawfully done or performed by a body corporate.

(3) Except as otherwise provided in this Act, the Authority shall be independent in the performance of its functions and exercise of its powers and shall not be subject to the direction or control of any person or authority.

Functions of
the Authority.

13B. The functions of the Authority shall be to—

(a) regulate, monitor and supervise petroleum operations in Kenya in accordance with this Act, the regulations made thereunder and the relevant petroleum agreement;

(b) provide such information and statistics in relation to petroleum operations in Kenya to the Cabinet Secretary as may be required from time to time;

(c) regulate the importation, refining, exportation, transportation, storage and sale of petroleum and petroleum products with the exception of crude oil;

(d) collect, maintain and manage petroleum data;

(e) receive and review an application for a nonexclusive exploration and there it is satisfied that it is warranted, grant a non-exclusive exploration permit;

(f) co-ordinate the development of petroleum infrastructure and promote capacity building in upstream petroleum operations;

- (g) enter any area, structure, vehicle, vessel, aircraft or building that has been, is being or is to be used in connection to upstream petroleum operations;
- (h) inspect and test any machinery or equipment that has been used, is used or shall be used in upstream petroleum operations;
- (i) take or remove, for analysis, testing or for use in evidence in connection with the commission of an offence under this Act, samples of petroleum or other substances from any area where any upstream petroleum operations are being carried on;
- (j) inspect, take extracts from, or make copies of any document relating to any petroleum operations;
- (k) assess field development plans and make recommendations to the Cabinet Secretary for approval, amendment or rejection of the plans;
- (l) assess tail-end production and cessation of upstream petroleum operations and oversee decommissioning by a contractor;
- (m) verify the measurements of petroleum production to allow for estimation and assessment of royalties and profits of oil and gas due to the National Government;
- (n) verify the recoverable cost of oil and gas due to the parties to a petroleum agreement;
- (o) audit contractors for cost recovery;
- (p) monitor in consultation with the Competition Authority established under the Competition Act conditions of contractors' operations and their trade practices to ensure that competition and fair practice is maintained;
- (q) provide information to the relevant authority for the collection of taxes and fees from upstream petroleum operations;
- (r) set, review and approve contracts, tariffs and charges for common user upstream petroleum facilities;
- (s) make proposals to the Cabinet Secretary in relation to regulations which may be necessary or expedient for the regulation of the petroleum sector or for carrying out the objects and purposes of this Act;
- (t) work with the relevant statutory authorities to formulate, enforce and review environmental, health, safety and quality standards for the petroleum sector;
- (u) develop guidelines, in consultation with other statutory authorities, in relation to the implementation of treaties, conventions or protocols affecting the upstream petroleum sector that have been ratified by Kenya;
- (v) regulate contracts on upstream petroleum operations not specifically provided for under this Act;
- (w) advise the Cabinet Secretary in the evaluation of the bids and applications made for upstream petroleum blocks; and

(x) perform any other function that may be conferred on it under this Act.

Powers of the
Authority

- 13C. (1) The Authority shall have all powers necessary or expedient for the performance of its functions under this Act and in particular, the Authority shall have the power to—
- (a) ensure that contractors uphold the relevant laws, regulations and petroleum agreement terms;
 - (b) ensure optimal levels of recovery of petroleum resources;
 - (c) promote well planned, executed and cost-efficient operations;
 - (d) ensure optimal utilization of existing and planned facilities;
 - (e) ensure the establishment of a central database of persons involved in upstream petroleum operations;
 - (f) manage upstream petroleum data and provide periodic updates and publication of the status of upstream petroleum operations
 - (g) take such action as is necessary to enforce the requirements in a petroleum agreement or any regulations and to protect the environment, the health and safety of workers and the public;
 - (h) ensure and facilitate competition, access and utilization of facilities by third parties;
 - (i) prescribe the form and manner in which any application for any approval under this Act shall be made;
 - (j) investigate complaints or disputes arising from upstream petroleum operations;
 - (k) enter, inspect and search any premises at which any undertaking is carried out or an offence under this Act is being committed or is suspected to have been committed;
 - (l) issue orders either requiring acts or things to be performed or done, prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled in furtherance of its powers under this Act;
 - (m) impose such sanctions and civil fines not exceeding five hundred thousand shillings per violation per day, as may be

prescribed in regulations to secure compliance with orders issued under this Act;

(n) enforce local content requirements;

(o) issue operational permits and non-exclusive exploration permits in accordance with this Act; and

(p) ensure enforcement and compliance with the national values and principles.

(2) The Director Public Prosecutions may, on the request of the Authority, appoint any officer of the Authority or an advocate of the High Court to be a public prosecutor for the purposes of prosecuting offences under this Act.

Board of Directors
Of the Authority

13D. (1) The management of the Authority shall vest in a Board of Directors which shall consist of—

(a) a chairperson appointed by the President;

(b) the Principal Secretary in the Ministry for the time being responsible for petroleum or his or her authorized representative;

(c) the Principal Secretary in the National Treasury or his or her authorized representative;

(d) three county executive committee members responsible for petroleum nominated by the Council of County Governors;

(e) the Director-General appointed under section 23 of this Act; and

(f) one person shall be nominated by the Kenya Private Sector Alliance appointed by the Cabinet Secretary;

(g) one person with knowledge and experience in matters relating to petroleum and serving in an institution of higher education appointed by the Cabinet Secretary.

(2) A person shall be qualified for appointment as a chairperson under subsection (1)(a) or a member under subsection (1)(f) and (g) if that person—

(a) is a citizen of Kenya;

(b) holds a degree from a university recognized in Kenya in any of the following fields—

(i) engineering;

(ii) physical sciences;

(iii) law;

(iv) finance;

(v) economics; or

(vi) energy;

(vii) any other relevant degree.

(c) has had at least seven years relevant professional and managerial experience;

- (d) is a member in good standing of the relevant professional association;
and
(e) meets the requirements set out in Chapter Six of the Constitution.

Terms of Office of the Chairperson
and members of the Board

- 13E. (1) The chairperson of the Board of the Authority shall be appointed for a term of four years and shall be eligible for re-appointment for one further term.
- (2) A member of the Board appointed under section 13D(1)(f) and (g) shall hold office for a period of three years and shall be eligible for re-appointment for one further term.
- (3) The chairperson and members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.
- (4) The chairperson and the members appointed in accordance with section 13D(1)(f) and (g) who shall be appointed immediately upon the coming into force of this Act shall be appointed for such shorter terms than prescribed in subsection (1) or subsection (2) so their tenures do not end on the same date.

Gender, regional and ethnic balance

13F. In the composition of the Board of Directors, no more than two-thirds of members shall be of one gender and the Board shall also reflect balance the regional and ethnic diversity of Kenya.

Conduct of the Board

13G. (1) The conduct and regulation of the business of the Board shall be as provided in the First Schedule of this Act.
(2) Subject to the provisions of the First Schedule, the Board shall regulate its own procedure.

Vacancies in the Board

13H. (1) The office of the chairperson or a member of the Board of Directors, as the case may be, shall become vacant if the holder-

(a) dies;

(b) by notice in writing addressed to the President or the Cabinet Secretary, as the case may be, resigns from office; or

(c) is removed from office under any of the circumstances contemplated in section 13I.

(2) The President or the Cabinet Secretary, as the case may be, shall notify every resignation, vacancy or termination in the Gazette within fourteen days.

Removal of chairperson or
member of the Board

13I. A chairperson or a member appointed under section 13D(1)(f) and (g) may be removed from the office for-

- (a) any violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the chairperson's or member's, as the case may be, functions or otherwise;
- (c) physical or mental incapacity to perform the functions of the office;
- (d) being absent from three consecutive meetings of Board without reasonable cause;
- (e) a failure to disclose to the Board of Directors any interest in any contract or matter before the Board;
- (f) being convicted of a criminal offence;
- (g) incompetence; or
- (h) bankruptcy.

Director-General

13J. (1) The Cabinet Secretary shall, on the recommendation of the Board of Directors, appoint a Director-General who shall be the chief executive of the Authority and shall, subject to the directions of the Board, be responsible for the day to day management of the Authority.

(2) The Cabinet Secretary shall appoint the Director General from a list of three names of persons submitted by the Board of Directors after a competitive selection process.

(3) A person shall be qualified for appointment as the Director-General if such person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya in the fields of—
 - (i) petroleum geosciences;
 - (ii) petroleum engineering;
 - (iii) petroleum economics;
 - (iv) finance; or
 - (v) petroleum law.
- (c) has at least seven years relevant professional experience;
- (d) is a member in good standing of the relevant professional association; and
- (e) meets the requirements set out in Chapter Six of the Constitution.

(4) The Director-General shall hold office for a term of three years and shall be eligible for reappointment for one further term of three years.

(5) The Director-General shall be the secretary to the Board of Directors but shall have no right to vote at any meetings of the Board of Directors.

Removal from office of
Director General

13K. (1) The Cabinet Secretary may remove the Director-General from office in accordance with the terms and conditions of service only for—

- (a) inability to perform the functions of office due to physical or mental General incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty;
- (d) violation of the Constitution or any other law;
- (e) bankruptcy; or
- (f) any other ground that would justify removal from office under the terms and conditions of service.

(2) Before the Cabinet Secretary removes the Director General from office, the Director-General shall be given—

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

Staff of the Authority

13L. The Authority may, in consultation with the Public Service Commission, Authority appoint such staff as it may require for the proper discharge of the functions of the Authority under this Act, and on such terms and conditions of service as the Board, on the recommendation of the Salaries and Remuneration Commission, may determine.

Remuneration of members of the Board

13M. The Authority shall pay its members such remuneration, fees or allowances for expenses as may be determined by the Salaries and Remuneration Commission.

Protection from personal liability

13N. (1) Any matter or thing done by a member of the Board or any officer, employee or agent of the Authority shall not, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority, render the member, officer, employee, agent or any other person acting on those directions personally liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Authority of the liability to pay compensation or damages to any person for an injury to that person, that person's property or any of the persons' interests caused by the exercise of the powers conferred on the Board by this Act

or by any other written law or by the failure, whether wholly or partially, of any works.

Funds of the Authority.

- 13O. (1) The funds of the Authority shall consist of—
- (a) such moneys as may, from time to time, be appropriated by the National Assembly for that purpose;
 - (b) levies, not exceeding one half of a percent on the sales of petroleum products;
 - (c) such other moneys or assets as may accrue to or vest in the Authority in the exercise of its powers or the performance of its functions under the Act;
 - (d) any revenues generated from any proprietary interest held by the Authority whether movable or immovable;
 - (e) interest from bank deposits; and
 - (f) any revenue from other sources including loans, grants, gifts, or donations approved by the Cabinet Secretary.
- (2) All revenues generated by the Authority including levies shall be paid into the Consolidated Fund.
- (3) Any funds retained by the Authority shall make part of the funds of the Authority by way of appropriation.
- (4) Penalties are excluded from the funds of the Authority.
- (5) The Cabinet Secretary responsible for matters relating to petroleum may make Regulations to provide for a levy prescribing—
- (a) the amount in Kenya Shillings payable per cubic metre of crude oil;
 - (b) the amount of Kenya Shillings payable per one thousand cubic metre of marketable natural gas;
 - (c) when the relevant levy may be applied; and any other requirements for implementation of the levy.
- (6) There shall be paid out of the funds of the Authority, all expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.

Investment of funds of the Authority

- 13P. (1) The Authority may invest its funds in any securities which for the funds of the time being trustees may by law invest in trust funds, or in any other securities which the Cabinet Secretary may, from time to time, approve for that purpose.
- (2) The Authority may place on deposit with such a bank as it may determine, any moneys not immediately required for the purposes of the Authority.

Financial year

- 13Q. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June each year.

- Annual estimates. 13R. (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 Authority for that year.
- (2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned.
- (3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.
- Annual report. 13S. The Board shall, within a period of three months after the end of each financial year, submit –
- (a) to the Auditor-General, the accounts of the Authority in respect of that year together with —
- (i) a statement of the income and expenditure of the Authority during that year; and
- (ii) a statement of the assets and liabilities of the Authority on the last day of that financial year; and
- (b) to the Cabinet Secretary, an annual report in respect of that year containing-
- (i) the accounts of the Authority and statements referred to under paragraph (a);
- (ii) the Authority's performance indicators and any other related information;
- (iii) a report on the operations of the Authority during that year; and
- (iv) such other information as the Cabinet Secretary may request.
- Accounts and audit 13T. (1) The Authority shall keep or cause to be kept proper books of audit in which shall be recorded all the income and liabilities, expenditure, assets, undertakings, funds, activities, contracts, transactions and any other business of the Authority.
- (2) The Authority shall ensure that all moneys received are properly brought to account, all payments out of its funds are properly made and authorized and that adequate control is maintained over its assets and liabilities in accordance with this Act and any other written law.
- (3) Within a period of three months after the end of each financial year, the Authority shall prepare annual financial statements in accordance with the provisions of section 81 of the Public Finance *No.18 of 2012* Management Act, and submit them to the Auditor-General or to an auditor appointed under subsection (4), for audit.

(4) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts of the Authority, to the Authority and to the Cabinet Secretary, and in the case of an auditor appointed in accordance with section 81 of the Public Finance Management Act, the auditor shall submit a copy of the report to the Auditor-General and the Auditor-General shall submit the report to the Authority and Cabinet Secretary.

(5) Notwithstanding anything in this Act, the Auditor-General may submit to the Cabinet Secretary a special report on any matter incidental to his powers under this Act, and the provisions of the Public Finance Management Act, on the same issue shall apply with the necessary modifications to any report made under this section.

(6) The fee for an auditor, other than the Auditor-General, appointed under section 81 of the Public Finance Management Act, not being a public officer, shall be determined and paid by the Authority.

(7) The Authority shall prepare the financial statements in a form that complies with the Public Finance Management Act.

Delegation of powers of powers or
functions to committees or agents

13U. (1) The Authority may, by resolution either generally or in any powers or particular case, delegate to any committee of the Authority or to functions to any member, officer, employee or agent of the Authority, the Committees exercise of any of its powers of the performance of any of its functions or duties in accordance with this Act.

(2) A committee, officer, employee or agent of the Authority shall be appointed in writing and the instrument of appointment shall set out the term of the appointment, the duties of the appointee, the appointee's reporting requirements, functions, authority and powers conferred on the appointee.

(3) Any instrument issued by the Authority under subsection (2) may be varied or revoked by the Authority at any time.

(4) The Authority shall pay such allowances and fees to the members of such committees or such officers, employees or agents as the Salaries and Remuneration Commission may recommend.

Powers of committees or agents

13V. (1) A committee, member, officer, employee or agent appointed committees or under section 13U may, upon production

of evidence of appointment to any person reasonably requiring it, for the purposes of this Act—

(a) enter upon any premises at which any undertaking is carried out in relation to upstream petroleum operations or an offence under this Act is or is suspected to have been committed;

(b) inspect and test any process, installation, works or other operation in relation to upstream petroleum operations which is or appears likely to be carried out in those premises;

(c) be accompanied by a police officer if there is a reason to believe that any serious obstruction may occur in relation to an inspection or inquiry under this section;

(d) require from any person the production of any book, notice, record, list or other document which appears to the committee, officer, employee or agent to have relevance to the inspection or inquiry, which is in the possession or custody or under the control of that person or of any other person on that committee's or agent's behalf;

(e) examine and copy any part of any book, notice, record, list or other document which appears to have relevance to the inspections or inquiry, and require any person to give an explanation of any entry therein, and take possession of any such book, notice, record, list or other document as he believes may afford evidence of an offence under this Act;

(f) require information relevant to the committee, officer, employee or agents' inspection or inquiry from any person whom the committee, officer, employee or agent has reasonable grounds to believe is or has been employed at any such premises or to have in that person's possession or custody or under the person's control any article referred to in this subsection; or

(g) exercise such other powers as may be necessary in connection with the inspection or inquiry and other powers of his appointment under section 13U.

(2) A member of a committee of the Authority, officer, employee or agent entering upon any premises under this section may be accompanied by such persons and may enter with such equipment as may be necessary.

(3) Where—

(a) the premises to which this section relates are unoccupied;

(b) the owner, occupier or person in charge thereof is temporarily absent; or

(c) entry thereon is refused or obstructed, the member of the committee, officer, employee or agent may use such force as is reasonably necessary to effect entry:

Provided that in the case of an entry under paragraph (a) or (b)—

(i) reasonable steps shall be taken prior to entry by the member of the committee, officer, employee or agent to find the owner, occupier or person in charge of the premises to be entered; and

(ii) the premises shall be left by the member of the committee, officer, employee or agent as effectively secured against trespassers as they were found.

(4) Where it is suspected that an undertaking is being carried contrary to any licence, permit or regulations issued under this Act, an officer or agent of the Authority may, in the course of his or her duty, lock up, seal, mark or otherwise secure—

- (a) any building, room, place, receptacle or item of plant;
- (b) any goods or materials in a factory; and
- (c) aircraft, vessels, vehicles or containers.

(5) A person who, unless authorized by the Authority or any other competent authority, opens, breaks, alters or in any way interferes with a lock, seal, mark or other fastening placed by a member of a committee, officer, employee or agent in accordance with this section on any building, room, place, receptacle, item of plant, goods, or materials, commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both .

(6) A person who resists, hinders or obstructs any committee, officer, employee or agent acting in the course of the committee's or agent's duty under this section or who willfully fails to comply with any requirements lawfully made thereunder commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings for each day or part thereof that the obstruction occurs.

How Authority shall
Exercise its powers and
functions

13W. The Authority shall, in the exercise of its powers and performance of its functions-

- (a) promote efficiency, economy and safety in the conduct of upstream petroleum operations;
- (b) ensure that contractors carry out the upstream petroleum operations for which they are licensed to perform;
- (c) promote competition in upstream petroleum operations to ensure the optimal performance of industry players;
- (d) advocate and ensure transparency between upstream petroleum industry and the Authority;
- (e) ensure fair balance in the interests of the National Government and other stakeholders in the upstream petroleum industry; and ensure full compliance of the petroleum agreement by all parties to the agreement.

Co-operation with others

13X. The Authority shall, to the greatest extent possible and in accordance with this Act, consult and co-operate with other ministries, departments and agencies of the National Government in promoting effective upstream petroleum operations.

National Data

13Y. The Authority shall establish a national data *Centre* which shall be used for the storage, analysis, interpretation, and management of petroleum data and information from sedimentary basins and field operations.

Decisions of the Authority.

13Z. (1) Where the Authority is required to make a decision under this Act, the Authority shall make that decision within sixty days of obtaining all the documents or information required under this Act or hearing all parties, where necessary, in relation to the decision.

(2) Where the Authority fails to make a decision within the period provided under this section (1), an affected party may apply to the Tribunal for the matter to be considered and determined by the Tribunal.

(3) The decision of the Authority shall be in writing and shall include the reasons for the decision.

(4) A decision of the Authority shall be served upon all relevant parties within seven days of making the decision and may be published in the Gazette as may be prescribed by Regulations.

(5) Where a decision of the Authority requires a party to do or refrain from doing something, that party shall comply with the decision of the Authority within the time prescribed in the decision.

Appeal against decision of the Authority.

13AA. A party aggrieved by a decision of the Authority may appeal to the Tribunal within sixty days of receipt of the decision: Provided that the Tribunal may hear an appeal out of time if it is satisfied that there is sufficient cause.

The common seal of the Authority.

13BB. (1) The common seal of the Authority shall be kept in such custody as the Authority may direct and shall not be used except on the direction of the Board.

(2) The common seal of the Authority when affixed on a document and duly authenticated shall be judicially and officially noticed unless and until the contrary is proved, and any necessary order or authorization by the

Authority under this section shall be presumed to have been duly given.

(3) The Chairperson and Director-General shall authenticate the affixing of the common seal of the Authority by the signature of the Chairperson and the Director-General:

Provided that the Authority shall, in the absence of the Chairperson, nominate one member to authenticate the seal on behalf of the Chairperson.

(4) The Chairperson and Director-General may authenticate, by their signatures—

(a) any document not required by law to be made under seal and

(b) all decisions of the Board.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Sen. Olekina: Mr. Temporary Chairman, Sir I beg to move that New Clause 13A be now read a Second Time.

Sen. Pareno seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Chairperson (Sen. Lelegwe): Division will be at the end.

Hon. Senators, we cannot adjourn on the Committee of the Whole. I, therefore, call upon the Mover to report progress only for this Bill.

Sen. Murkomen: Mr. Temporary Chairperson, pursuant to Standing Order No.142, I beg to move that the Committee of the Whole report progress on its consideration of The Petroleum Bill (National Assembly Bill No. 48 of 2017) and seek leave to sit again tomorrow.

Sen. Olekina seconded.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Speaker (Sen. Nyamunga) in the Chair]

PROGRESS REPORTEDTHE PHYSICAL PLANNING BILL
(NATIONAL ASSEMBLY BILLS NO. 34 OF 2017)

The Temporary Speaker (Sen. Nyamunga): May the Mover of the Physical Planning Bill (National Assembly Bills No. 34 of 2017) give a report.

Sen. Murkomen: Madam Temporary Speaker, it is the Chairperson first.

Sen. Lelegwe: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered the Physical Planning Bill (National Assembly Bills No. 34 of 2017) and instructed me to report progress and seek leave to sit again tomorrow.

Sen. Murkomen seconded.

The Temporary Speaker (Sen. Nyamunga): The Mover to proceed.

Sen. Murkomen: Madam Temporary Speaker, I beg to move that the House do agree with the Committee on the said report. I ask Sen. Ledama to second.

Sen. Olekina: Madam Temporary Speaker, I second.

(Question proposed)

(Question put and agreed to)

THE LAND VALUE INDEX LAWS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO.3 OF 2018)

The Temporary Speaker (Sen. Nyamunga): Proceed, Chairperson.

Sen. Lelegwe: Madam Temporary Speaker, I beg to report progress that the Committee of the Whole has considered the Land Value Index Laws (Amendment) Bill (National Assembly Bills No.3 of 2018), and seeks leave to sit again tomorrow.

The Temporary Speaker (Sen. Nyamunga): Mover?

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to move that the House do agree with the Committee on the said Report and ask Sen. I request Sen. Pareno to second.

Sen. Pareno: Madam Temporary Speaker, I second.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I would like to invoke Standing Order 31 to extend the sitting to such a time when we will have finished with the reports.

(Question proposed)

(Question put and agreed to)

The next one to be tackled is the Kenya Roads Bill (National Assembly Bills No. 47 of 2017).

Proceed, Chairperson.

THE KENYA ROADS BILL (NATIONAL ASSEMBLY
BILLS NO. 47 OF 2017)

Sen. Lelegwe: Madam Temporary Speaker, I beg to report progress that the Committee of the Whole has considered the Kenya Roads Bill (National Assembly Bills No. 47 of 2017), and seeks leave to sit again tomorrow.

The Temporary Speaker (Sen. Nyamunga): Mover?

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to move that the House do agree with the Committee in the said report and ask Sen. Seneta to second.

Sen. Seneta: Madam Temporary Speaker, I second.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Nyamunga): Next is the Energy Bill (National Assembly Bills No.50 of 2017).

Proceed, Chairperson.

THE ENERGY BILL (NATIONAL ASSEMBLY BILLS NO.50 OF 2017)

Sen. Lelegwe: Madam Temporary Speaker, I beg to report progress that the Committee of the Whole has considered the Energy Bill (National Assembly Bills No.50 of 2017), and seeks leave to sit again tomorrow.

Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to move that the House do a view with the Committee on the said report and ask Sen. Mwangi to second.

Sen. Mwangi: I second, Madam Temporary Speaker.

(Question proposed)

(Question put and agreed to)

THE PETROLEUM BILL (NATIONAL ASSEMBLY
BILLS NO. 48 OF 2017)

The Temporary Speaker (Sen. Nyamunga): The next report is on The Petroleum Bill National Assembly Bill No.48 of 2017.

Sen. Lelegwe: Madam Temporary Speaker, I beg to report progress that the Committee of the Whole has considered The Petroleum Bill National Assembly Bill No.48 of 2017) and seeks leave to sit again tomorrow.

The Temporary Speaker (Sen. Nyamunga): Who is the Mover?

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to move that the House do agree with the Committee on the said report and ask Sen. (Eng.) Maina to second.

Sen. (Eng.) Maina: Madam Temporary Speaker I second.

(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, it is now 6.36 p.m. Therefore, the House stands adjourned until tomorrow Thursday 14th February 2019 at 2:30 p.m.

The house rose at 6:36 p.m.