



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (SIXTH SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

**SUPPLEMENTARY**

WEDNESDAY, APRIL 13, 2022 AT 2.30 P.M.

ORDER OF BUSINESS

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Questions and Statements

8\*. MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON ITS CONSIDERATION OF THE COFFEE BILL (SENATE BILL NO. 22 OF 2020)

(The Chairperson, Departmental Committee on Agriculture and Livestock)

**THAT**, this House do agree with the Report of the Committee of the whole House on its consideration of the Coffee Bill (Senate Bill No. 22 of 2020).

*(Question to be put and Third Reading)*

9\*. THE HUDUMA BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2021)

(The Leader of the Majority Party)

Second Reading

*(Question to be put)*

10\*. COMMITTEE OF THE WHOLE HOUSE

- (i) The National Electronic Single Window System Bill (National Assembly Bill No. 15 of 2021)

(The Leader of the Majority Party)

(ii) The Huduma Bill (National Assembly Bill No. 57 of 2021)  
(The Leader of the Majority Party)  
*(With leave of the House)*

(iii) The Children Bill (National Assembly Bill No. 38 of 2021)  
(The Leader of the Majority Party)

**11\*. THE NATIONAL DISASTER RISK MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 28 OF 2021)**

(The Leader of the Majority Party)

Second Reading

**12\*. MOTION- IMPLEMENTATION STATUS OF THE REPORT ON A PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTE KENYA LIMITED**

(The Chairperson, Committee on Implementation)

**THAT**, this House **adopts** the Report of the Select Committee on Implementation on its consideration of the Implementation Status of the Report of the Departmental Committee on Lands on a Petition on irregular renewal of leases of land by Del Monte Kenya Limited, *laid on the Table of the House on Wednesday, December 22, 2021.*

**13\*. THE PROMPT PAYMENT BILL (SENATE BILL NO. 16 OF 2021)**

(The Chairperson, Departmental Committee on Finance and National Planning)

Second Reading

**14\*. THE STARTUP BILL (SENATE BILL NO. 1 OF 2021)**

(The Chairperson, Departmental Committee on Communication, Information and Innovation)

Second Reading

**15\*. THE MUNG BEANS BILL (SENATE BILL NO. 9 OF 2020)**

(The Chairperson, Departmental Committee on Agriculture and Livestock)

Second Reading

---

**\*Denotes Orders of the Day\***

---

# **NOTICES**

## **I. THE NATIONAL ELECTRONIC SINGLE WINDOW SYSTEM (NATIONAL ASSEMBLY BILL NO. 15 OF 2021)**

Notice is given that the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives intends to move the following amendments to the National Electronic Single Window System Bill, 2021 at the Committee Stage—

### **NEW CLAUSES**

**THAT**, the Bill be amended by inserting the following new clause immediately after Clause 2—

Objective of the Act. **2A.** The objective of the Act is to provide a single platform for facilitation of trade through integration of systems of Government and private entities.

Application of the Act. **2B.** The Act shall apply to Government entities, persons importing or exporting goods and to persons involved in domestic trade.

Guiding principles. **2C.** The Agency and the users of the System shall be guided by the following principles-

- (a) simplicity and practicability;
- (b) cost effectiveness;
- (c) non-discrimination;
- (d) consistency and predictability;
- (e) modernization and use of new technology; and
- (f) due process; and cooperation.

### **CLAUSE 4**

**THAT**, Clause 4 of the Bill be amended by—

- (a) deleting paragraph (c);
- (b) deleting the word “department” appearing in paragraph (e) and substituting therefor the words “Government entity”;
- (c) deleting paragraph (f).

### **CLAUSE 5**

**THAT**, Clause 5 of the Bill be amended by—

- (a) renumbering the existing clause as sub-clause (1);
- (b) inserting the following new sub-clause after the renumbered sub-clause (1) as follows-

“(2) The Agency shall maintain the integrity and security of the System.

**CLAUSE 7**

**THAT**, Clause 7 of the Bill be amended by deleting the words “conform to” appearing immediately after the words “system shall” in sub-clause 2 and substituting therefore the words “guided by”.

**CLAUSE 8**

**THAT**, Clause 8 of the Bill be amended by deleting paragraph (B) and substituting therefor the following new paragraph (b)-

“(b) Facilitate, through the System, the collection of any other dues as agreed by relevant Government Ministries, departments and agencies as provided for under any written law.”

**CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended in sub-clause (3) by deleting the expression sub-clause (3) and substituting therefore the following new sub-clause (3)-

“(3) The system shall enable the users of the platform-.”

**CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended-

- (a) in clause sub-clause (1) by deleting the words “if an advanced or” and substituting therefor the expression “by a”;
- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause-

“(3) Where a person is required or permitted to provide a certified copy of a document and the document exists in paper or other physical form, that requirement shall be deemed to have been fulfilled if an electronic copy of the document is certified to be a true copy of the document and the certification is confirmed by the electronic signature of a person who is authorized to certify the document which is verified in advance in the System.”

**CLAUSE 15**

**THAT**, Clause 15 be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause-

“(3) For the purposes of subsection (2), a document is sealed if the document includes the electronic signature of the person authorized to seal the document”.

**CLAUSE 23**

**THAT**, Clause 23 be amended in sub-clause (2) by deleting the word ‘taking’ appearing immediately before the words “purchasing or” in paragraph (b).

**CLAUSE 25**

**THAT**, Clause 25 of the Bill be amended by-

- (a) inserting the words “competitively recruited and” immediately after the words “of the Agency” appearing in paragraph (b) of sub-clause (1);

- (b) inserting the words “competitively recruited and” immediately after the words “public officers” appearing in paragraph (g) of sub-clause (1); and
- (c) inserting the word “Board” immediately after the words “members of the” appearing in sub-clause (2);

**NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause immediately after Clause 25—

Vacancy of office.

**25A.** A member of the Board other than an ex-officio member shall cease to hold office if the member—

- (a) resigns in writing to the Cabinet Secretary;
- (b) dies; or
- (c) is otherwise removed from office.

**CLAUSE 28**

**THAT**, Clause 28 of the Bill be amended by—

- (a) inserting the words, “competitively recruited and” immediately after the word “agency” appearing in sub-clause (1); and
- (b) deleting the words, “at least an advanced relevant degree” appearing in paragraph (a) of sub-clause (2), and substituting therefor the words “a relevant postgraduate degree”.

## **II. THE HUDUMA BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2021)**

**Notice is given that the Chairperson of the Departmental Committee on Administration and National Security intends to move the following amendments to the Huduma Bill, 2021 at the Committee Stage—**

**CLAUSE 2**

**THAT**, Clause 2 of the Bill be amended—

- (a) by inserting the following definitions of terms in their proper alphabetical sequence—

"Appeals Committee" means the NIIMS Appeals Committee established under section 67G of this Act;

“Board” means the Board established under section 60D (1);

"Commissioner" means the Commissioner for NIIMS Services appointed under section 67J;

"chairperson" means the chairperson of the Council of the Service appointed under section 60D;

“Service” means the National Integrated Identity Management System Service established under section 60;

- (b) by deleting the definition of the term “biometric data” and substituting therefor the following new definition—

“biometric data” has the meaning assigned to it under section 2 of the Data Protection Act, 2019;”

- (c) by deleting the definition of the term “birth” and substituting therefor the following new definition—

“birth” means the complete expulsion or extraction from a mother of a product of conception whether dead or alive;”

- (d) by deleting the definition of the term “Committee”;

- (e) in the definition of the term “foundational data” by deleting the words “and includes biometric data and biographical data.”;

- (f) in the definition of the term “new-born” by deleting the words “twenty eighth” and substituting therefor the word “ninetieth”;

- (g) by deleting the definition of the term “personal data” and substituting therefor the following new definition—

“personal data” has the meaning assigned to it under section 2 of the Data Protection Act, 2019;”

- (h) by deleting the definition of “Principal Secretary”.

### **CLAUSE 8**

**THAT**, the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

Proof of identity.

**8.** The presentation of the Huduma card issued under this Act shall be sufficient proof of identity to facilitate access to any public service which may require an official identification.

### **CLAUSE 9**

**THAT**, Clause 9 of the Bill be amended by deleting the words “, at first instance,”.

### **CLAUSE 10**

**THAT**, Clause 10 of the bill be amended in sub clause (4) by deleting the words “Principal Secretary” and substituting therefor the word “Commissioner”;

### **CLAUSE 11**

**THAT**, Clause 11 of the Bill be amended in paragraph (a), by deleting the word “immediately” and substituting therefor the words “within ninety days”;

**CLAUSE 12**

**THAT**, Clause 12 of the bill be amended—

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

“(b) notify the individual within twenty-one days of the status of the enrolment”

- (b) by deleting the words “Principal Secretary” wherever it occurs and substituting therefor the word “Commissioner”;

**CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended in sub clause (4), by inserting the word “reasonable” immediately after the words “payment of such”;

**CLAUSE 15**

**THAT**, Clause 15 of the Bill be amended by inserting a new sub clause immediately after sub clause (1)—

“(1a) The replacement of a Huduma card shall be done within twenty-one days after receipt of such application under subsection (1)”

**CLAUSE 17**

**THAT**, Clause 17 of the Bill be amended—

- (a) by deleting the words “Principal Secretary” wherever it occurs and substituting therefor the word “Commissioner”;
- (b) by deleting sub clause (4), and substituting therefor the following new sub clauses—
- (4) A person aggrieved by a decision under this section may—
- (a) appeal to the Appeals Committee; or
- (b) pursue alternative dispute resolution mechanisms.
- (5) A person dissatisfied with a decision of under subsection (4) (a) may appeal to the High Court within sixty days of receipt of such decision.

**CLAUSE 21**

**THAT**, Clause 21 of the Bill be amended by inserting the word “filled” immediately after the words “the father shall be”

**CLAUSE 22**

**THAT**, Clause 22 of the Bill be amended by deleting the words “Principal Secretary” wherever it occurs and substituting therefor the word “Commissioner”;

**CLAUSE 23**

**THAT**, Clause 23 of the Bill be amended by inserting the following new sub clauses immediately after sub clause (3)—

“(4) Despite subsections (1), (2) and (3), the Commissioner may allow late registration under this section where an applicant provides sufficient reasons for not registering within the stipulated period.

(5) The Cabinet Secretary shall prescribe the circumstances under which a penalty may be waived.”

#### **CLAUSE 24**

**THAT**, Clause 24 of the Bill be amended—

- (a) in sub clause (1), by deleting the words “Principal Secretary” and substituting therefor the word “Commissioner”;
- (b) in sub clause (2), by inserting the following new paragraph immediately after paragraph (e)—

“(f) mid-wife or community health worker”

#### **CLAUSE 25**

**THAT**, Clause 25 of the Bill be amended—

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

“(d) the name and address of the person who has custody of the foundling or child.”
- (b) by inserting the following new sub clause immediately after sub clause (2)—

“(3) For the avoidance of doubt, the penalty under section 23 shall not apply in the registration of a foundling.

#### **CLAUSE 27**

**THAT**, Clause 27 of the Bill be amended—

- (a) in sub clause (1) by deleting the words” developmental milestones and other”;
- (b) by inserting the following new sub clause immediately after sub clause (3)—

“(4) An update of particulars under sub section (1), shall be at no cost to the applicant.”

#### **CLAUSE 30**

**THAT**, Clause 30 of the Bill be amended by inserting the words “the discovery of” immediately after the words “within thirty days of”.

#### **CLAUSE 32**

**THAT**, Clause 32 of the Bill be amended by deleting the words “Principal Secretary” and substituting therefor the word “Commissioner”;

#### **CLAUSE 37**

**THAT**, Clause 37 of the Bill be amended by deleting paragraph (c) and substituting therefor the following new paragraph—

- (c) delete the functional data of the deceased person and any linkage thereof to any living data subjects.

**CLAUSE 46**

**THAT**, the Bill be amended by deleting clause 46 and substituting therefor the following new clause—

Application of No. 24 of 2019.

**46.** The processing of personal data shall be carried out in accordance with Data Protection Act, 2019.

**CLAUSE 47**

**THAT**, Clause 47 of the Bill be amended in sub clause (2) by deleting the words “Principal Secretary” and substituting therefor the word “Commissioner”;

**CLAUSE 48**

**THAT**, Clause 48 of the Bill be amended—

(a) by inserting the following sub clauses immediately after sub clause (4)—

“(4a) Any data under this Act may be shared with a private entity after the Service has requested permission of the data subject.”

(4b) An entity which seeks any data under this Act shall—

(a) comply with the provisions of the Data Protection Act; and

(b) sign a data sharing agreement.

(b) by deleting the words “Principal Secretary” wherever it occurs and substituting therefor the word “Commissioner”;

**CLAUSE 49**

**THAT**, Clause 49 of the Bill be amended—

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

“(c) operational and institutional risks”

(c) by deleting the words “Principal Secretary” and substituting therefor the word “Commissioner”;

**CLAUSE 53**

**THAT**, Clause 53 of the Bill be amended by deleting the words “Principal Secretary” wherever it occurs and substituting therefor the word “Commissioner”;

**CLAUSE 58**

**THAT**, Clause 58 of the Bill be amended in sub clause (1) by deleting the words “to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year” and substituting therefor the following words “upon conviction to a fine not exceeding five million shillings or to imprisonment for a period not exceeding five years.

**CLAUSE 63**

**THAT**, Clause 63 of the Bill be amended be amended by deleting the words “Principal Secretary” wherever it occurs and substituting therefor the word “Commissioner”;

**CLAUSE 60**

**THAT**, the Bill be amended by deleting Clause 60 and substituting therefor the following new clauses—

Establishment  
of the Service.

**60.**(1) There is established a Service to be known as the National Integrated Identity Management System Service.

(2) The Service shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) acquiring, holding, charging and disposing movable and immovable property; and
- (c) doing or performing all such other things or acts for the proper discharge of its functions under this Act or any written law, as may lawfully be done or performed by a body corporate.

Functions of  
the Service.

**60A.**The functions of the Service shall be to—

- (a) formulate national policies on matters relating to civil registration and legal identification management in accordance with international standards;
- (b) facilitate effective co-ordination and implementation of the NIIMS;
- (c) establish a framework for ensuring the compatibility of technology infrastructure among different government agencies to comply with requirements of the NIIMS;
- (d) formulate a framework for coordinating agencies accessing the NIIMS database;
- (e) impose fees to classes of person in relation to subsequent issuance of huduma card after initial issue and penalties for late registration;
- (f) advise the Cabinet Secretary on the administrative measures that address any procedural or social barriers that may limit the enrolment of an individual;
- (g) make a recommendation for enrolment and cancellation into NIIMS;
- (h) ensure, in liaison with other government authorities, that adequate and appropriate facilities and services are provided to facilitate the enrolment of persons with disabilities, marginalised communities, persons incapacitated by illness, elderly citizens, and individuals in institutional households; and
- (i) perform any other function incidental to the above functions.

Departments.

**60B.** (1) For purposes of discharging its functions, the Service shall organise itself into such departments which shall include civil registration, national registration bureau, immigration and integrated population registration.

(2) The Department for Civil Registration shall be responsible for—

- (a) registration of births in the NIIMS database;
- (b) registration deaths in the NIIMS database;
- (c) issuing a birth certificate from the NIIMS database;
- (d) assigning huduma cards to minors; and
- (e) any other relevant function as maybe assigned by Service.

(3) The Department of National Registration Bureau shall be responsible for—

- (a) assigning huduma namba and huduma cards to adult citizens;
- (b) assigning huduma namba and huduma cards to foreign nationals;
- (c) assigning huduma namba and huduma cards to refugees; and
- (d) any other relevant function as maybe assigned by the Commissioner.

(4) The Department of Immigration shall be responsible for—

- (a) regulating entry and exit of all persons at our airports, seaports and land border posts;
- (b) issuing passports and other travel documents;
- (c) regulating residency through issuance and renewal of work permits, residence permits and other passes;
- (d) granting Kenyan citizenship to qualified foreigners;
- (e) issuing entry visas, register all non-citizens resident in Kenya;
- (f) declaring and removal of prohibited immigrants;
- (g) providing consular services to Kenya nationals and foreigners at all missions abroad; and
- (h) any other relevant function as maybe assigned by the Commissioner.

(5) The Department of Integrated Population Registration shall be responsible for—

- (a) administration of the NIIMS database;
- (b) storing and organising of data in the NIIMS database;
- (c) authenticating data for users in a secure platform;
- (d) linking government agencies in accessing NIIMS database in the prescribed manner for purposes of authenticating personal data; and
- (e) any other relevant function as maybe assigned by the Commissioner.

(6) Despite subsection (1), the Service may establish other departments as may be necessary to enable it carry out its functions.

Powers of the  
Service.

**60C.** (1) The Service shall have the power to do all the things necessary for the performance of its functions under this Act or any other written law.

(2) Despite the generality of subsection (1), the Service shall have the power to—

- (a) partner with the public and private sector in the financing, construction, development, operation, or maintenance of infrastructure or development projects of the Service through concession or other contractual arrangements pursuant to the provisions of the Public Private Partnership Act;
- (b) enter into partnership arrangements with public and private bodies as it deems fit with regard to the establishment, implementation, monitoring and financing of training or employment programmes;
- (c) receive or administer funds donated or entrusted to the Board by any agency or organization for any purpose relating to the training or employment of persons;
- (d) invest any surplus or profit for the performance of its functions; and
- (e) undertake any task or enter into any transaction which, in the opinion of the Board, is necessary to ensure the proper performance of its functions.

No. 15 of  
2013.

Establishment  
of the Board  
of the  
National  
Integrated  
Identity  
Management  
System  
Service.

**60D.** (1) There is established the Board of the National Integrated Identity Management System Service.

(2) The Board shall comprise—

- (a) a chairperson appointed by the President, with approval of the National Assembly;
- (b) the Principal Secretary for the time being responsible for information, communication and technology or a representative in writing;
- (c) the Principal Secretary for the National Treasury or a representative in writing;
- (d) the Principal Secretary for time being responsible for immigration or a representative in writing;
- (e) the Principal Secretary for the time being responsible for basic education or a representative in writing;
- (f) the Principal Secretary for the time being responsible for matters relating to health or a representative in writing;
- (g) the Inspector General of Police or a representative in writing;
- (h) the Director General of National Intelligence Service or a representative in writing;
- (i) the Attorney General or a representative in writing; and

- (j) the Commissioner who shall be an ex-officio member and Secretary to the Board.
- (3) The members of the Board shall be paid such allowances as the Cabinet Secretary may in consultation with the Salaries and Remuneration Commission determine.
- (4) The Chairperson of the Board appointed under subsection (2) (a) shall serve for a term of three years, renewable once and upon satisfactory performance of his or her duties.

Vacancy of member of the Board.

**60F.** The position of the chairperson the Board shall become vacant if the holder —

- (a) dies;
- (b) resigns from office by notice in writing addressed to the President;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment;
- (d) term of office expires;
- (e) is absent from three consecutive meetings of the Board without good cause; or
- (f) is removed from office for any of the following grounds —
  - (i) violation of the Constitution or any other written law;
  - (ii) gross misconduct or misbehaviour;
  - (iii) inability to perform functions of the office arising out of physical or mental infirmity;
  - (iv) incompetence or neglect of duty; or
  - (v) bankruptcy.

Committees of the Board.

**60G.** (1) The Board may from time to time establish committees for the better carrying out of its functions.

- (2) The Board may co-opt into the membership of committees established under subsection (1) a person whose knowledge and skills are necessary for the functions of the Service.
- (3) The Board may by resolution either generally or in any particular case delegate to any Committee of the Board or to any member, officer, employee or agent of the Service the exercise of any of the powers, functions or duties of the Service.

Conduct of the business and affairs of the Board.

**60H.** (1) The business and affairs of the Board shall be conducted in accordance with the Third Schedule.

- (2) Except as provided for in this Act, the Board shall regulate its own procedure.

- (3) The Board may permit any other person to attend its meetings and participate in its deliberations but that person shall not participate in the making of any of its decisions.

Protection  
from liability.

**60I.** Nothing done by a member of the Board or an officer of the Service or by any person working under the instructions of the Service shall, if done in good faith for the purpose of executing the powers, functions or duties of the Service under this Act or any other written law, render such member or officer personally liable for any action, claim or demand.

Commissioner  
for NIIMS  
Service.

**67J.** (1) There shall be a Commissioner for the National Integrated Identity Management System Service who shall be the secretary to the Service.

(2) The Commissioner shall be responsible for the day-to-day operations of the Service.

(3) Without the generality of the foregoing, the functions of the Commissioner shall—

- (a) coordinate and mobilize resources for the implementation of the relevant policies;
- (b) ensure effective co-ordination and implementation of the NIIMS;
- (c) receiving, storing and updating information on the NIIMS database;
- (d) establish a framework for ensuring the compatibility of technology infrastructure among different government agencies to comply with requirements of the NIIMS;
- (e) undertake the task of data collection and dissemination in a manner that ensures consistency and accuracy in accordance with set national standards and guidelines;
- (f) formulate a framework for coordinating agencies accessing the NIIMS database;
- (g) support the printing and distribution for collection of huduma card;
- (h) collaborate with other state agencies for effective discharge of its mandate;
- (i) reviewing and recommending for review of laws and regulations for the better management of the Act.; and
- (j) perform any other function incidental to the above functions or as may be assigned.

(4) The Commissioner shall be appointed by the President upon recommendation of the Board and approval of the National Assembly.

(5) A person who qualifies to be appointed as a Commissioner shall—

- (a) be a holder of a degree in law, administration, management, population studies, demography, information and technology or any other related field;
  - (b) meets the requirements of leadership and integrity in Chapter Six of the Constitution;
  - (c) have at least five years' experience in management;
  - (d) is a Kenyan citizen;
  - (e) has not been convicted of any criminal offence; and
  - (f) is not an undischarged bankrupt
- (6) A person appointed as the Commissioner shall serve for a single and non-renewable term of six years.
- (7) The office of the Commissioner shall become vacant if the holder —
- (a) dies;
  - (b) resigns from office in writing to the President;
  - (c) is convicted of a criminal offence and sentenced to a term of imprisonment; or
  - (d) is removed or retired from office by the President on the following grounds —
    - (i) violation of the Constitution or any other written law including a contravention of Chapter Six;
    - (ii) gross misconduct in the performance the functions of the office of the Commissioner;
    - (iii) physical or mental incapacity to perform the functions of the office of the Commissioner;
    - (iv) incompetence; or
    - (v) bankruptcy.

Access to  
services.

**60K.** (1) The Headquarters of the Service shall be in Nairobi.

(2) The Service shall ensure reasonable access of services of the Service in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service.

Independence  
of the Service.

**64L.** In the discharge of its functions and exercise of the powers under this Act or any other written law, the Service shall be independent and free from any interference.

Staff of the  
Service.

**64M.** (1) The Commissioner shall in consultation with the Public Service Commission, appoint such number of staff as may be necessary for the proper and efficient discharge of the functions under this Act or any other relevant law.

(2) For proper discharge of the functions of the Commissioner under this Act, such number of Directors, who shall assist the Commissioner in the performance of his or her functions.

Remuneration  
of the  
Commissioner  
and staff.

**64N.** The Commissioner and staff of the Service shall be paid such remuneration or allowances as the Salaries and Remuneration Commission may advise.

NIIMS  
Appeals  
Committee.

**67G.** (1) There shall be a National Integrated Identity Management System Appeals Committee.

(2) The Appeals Committee shall comprise of six members —

- (a) an advocate of not less than ten years standing who shall be the Chairperson to the Committee;
- (b) a representative of the Department responsible for information, communication and technology;
- (c) one person nominated by the Attorney General; and
- (d) three other persons with knowledge and experience in civil registration and legal identification matters.

(3) The members of the Appeals Committee shall be appointed by the Cabinet Secretary by name in the *Gazette*.

(4) The quorum for a meeting of the Appeals Committee shall be three members.

(5) The function of the Appeals committee shall be to hear and determine appeals against any decision under the Act.

(6) The Cabinet Secretary shall, by Regulations, provide for the procedure for hearing and determining an appeal and the applicable fees under this section.

(7) A member of the Appeals Committee shall hold office for a term of three years and shall be eligible for reappointment for one further term.

(8) Each member of the Appeals Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.

(9) The Public Service Commission shall provide the Appeals Committee with a secretariat for the purposes of discharging its mandate.

(10) A person who is aggrieved by the decision of the Appeals Committee may appeal to the High Court within sixty days of being notified.

## **CLAUSE 62**

**THAT**, the Bill be amended by deleting Clause 62;

**CLAUSE 63**

**THAT**, the Bill be amended by deleting Clause 63;

**CLAUSE 64**

**THAT**, the Bill be amended by deleting Clause 64;

**CLAUSE 65**

**THAT**, the Bill be amended by deleting Clause 65;

**CLAUSE 66**

**THAT**, the Bill be amended by deleting Clause 66;

**CLAUSE 67**

**THAT**, the Bill be amended by deleting Clause 67;

**NEW PART VIIIA**

**THAT**, the Bill be amended by inserting new Part VIIIA.

### **FINANCIAL PROVISIONS**

Funds of  
the  
Service.

**67A.** The funds of the Service shall consist of—

- (a) monies allocated by Parliament for purposes of the Service;
- (b) such fees as may be charged in accordance with this Act or regulations made thereunder;
- (c) any grants, gifts, donations or other endowments given to the Service;
- (d) such funds as may vest in or accrue to the Service in the performance of its functions under this Act or under any other written law.

Annual  
estimates.

**67B.** (1) At least three months before the commencement of each financial year, the Service shall cause to be prepared estimates of the revenue and expenditure of the Service for that year.

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

- (a) payment of remuneration in respect of the members and staff of the Service;
- (b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the Service;
- (c) maintenance of the buildings and grounds of the Service;

- (d) funding of training, research and development of activities of the Service; and
- (e) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Service may think fit.

Accounts  
and audit.

**67C.** (1) The Service shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Commission.

- (2) The annual accounts of the Service shall be prepared, audited and reported upon in accordance with the Public Audit Act, 2015.

No. 34 of  
2015.

Reports.

**67D.** (1) The Service shall, at the end of each financial year cause an annual report to be prepared.

(2) The Service shall submit the annual report to the President and the National Assembly three months after the end of the year to which it relates.

(3) The annual report shall contain, in respect of the year to which it relates—

- (a) the financial statements of the Service;
- (b) a description of the activities of the Service;
- (c) such other statistical information as the Service may consider appropriate relating to the Service's functions;
- (d) the impact of the exercise of any of its mandate or function;
- (e) any impediments to the achievements of the objects and functions under this Act or any written law; and
- (f) any other information relating to its functions that the Service considers necessary

### **CLAUSE 68**

**THAT**, Clause 68 of the Bill be amended—

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

- (1) The Cabinet Secretary shall, make regulations generally for giving effect to this Act, and for prescribing anything required or necessary to be prescribed by or under this Act within twelve months of the commencement of this Act.
- (b) by inserting the following paragraphs immediately after paragraph (d)—
- (d) other documentary proof for access to enrolment;
  - (e) provision of replacement cards to enable access to critical services;
  - (f) registration and management of stateless persons;
  - (g) the procedure for hearing and determining appeals in the Appeals Committee;
  - (h) mechanisms for registration of births and deaths;
  - (i) enrollment of stateless persons to NIIMS;
  - (j) other specified biometric data for an individual and a child;
  - (k) recognition of specified vital event of an individual and a child;
  - (l) conditions for late registration for births and deaths;
  - (m) procedures for verification and authentication of information from third party entities;
  - (n) accreditation process for institutions who seek to verify and authenticate information;
  - (o) horizontal integration of existing government databases;
  - (p) procedures, circumstances and limitations on the access, use, retention and disclosure of personal information by third parties;
  - (q) framework for the management of existing databases and portals;
  - (r) special administrative arrangements to ensure registration;
  - (s) procedures for updating particulars in the database and attendant timelines;
  - (t) procedures for capturing birth registration data for stateless persons and foreign nationals not resident in Kenya;
  - (u) access to adoption certificates;
  - (v) process of validation and rectification under NIIMS; and
  - (w) data protection impact assessments

### **CLAUSE 69**

**THAT**, Clause 69 of the Bill be deleted.

### **CLAUSE 72**

**THAT**, Clause 72 of the Bill be amended—

- (a) by inserting the following new sub clause immediately after sub clause (1)—
- “(1a) Any issues that arise on the repeal Acts, that are related to this Act, shall be dealt with and discharged by the Commissioner within eighteen months from the date of commencement of this Act;
  - (1b) Despite subsection (1a), the Cabinet Secretary may, by notice in the *Gazette*, extend the period prescribed in respect of any particular issue under subsection (1a), by a period not exceeding one year.”

- (b) in sub clause (5), by deleting the words “Principal Secretary” and substituting therefor the word “Commissioner”;

### **FIRST SCHEDULE**

**THAT**, the First schedule be amended—

- (a) in paragraph 1, by inserting the following subparagraph immediately after paragraph (g)—  
    “(h) ethnicity”
- (b) in paragraph 2, by deleting subparagraph (b)

### **SECOND SCHEDULE**

**THAT**, the Second Schedule be amended—

- (a) in the proposed amendments to the Interpretation and General provisions Act, by deleting the new definition of “gender” and substituting therefor the following new definition—  
    “sex” includes male, female and intersex”
- (b) in the proposed amendments to the Kenya Citizenship and Immigration Act—  
    (i) by deleting the proposed amendments to section 2 paragraph (2) and substituting therefor the following new section paragraph 2 (2)—
- (2) Insert the following new definitions in their proper alphabetical sequence—  
    Board

    “NIIMS officer” has the meaning assigned to it under the Huduma Act, 2021;

    “Director” means a person appointed as a Director under section 64M (2) of the Huduma Act;

    “Passport” has the meaning assigned to it under the Huduma Act, 2021;

    “Service” has the meaning assigned to it under the Huduma Act, 2021;

- (ii) by deleting the proposed amendments to “No. 12 of 2011” and substituting therefor the following new paragraphs—

    “Delete the words “immigration officer” wherever they appear and substitute therefor the words “NIIMS officer”

- (iii) in the proposed amendments to section 4(1), by deleting the words “Principal Secretary shall” and substituting therefor the following words “The Commissioner shall, in consultation with the Public Service Commission, appoint a Director to”;

(iv) by deleting the proposed amendments to section 4(2), and substituting therefor the following —

Delete the opening statement and substitute therefor the following—

“(2) The Director shall subject to such directions as may from time to time be given by the Commissioner perform the following functions— “

(c) by deleting the proposed amendments to section 5 and substituting therefor the following—

New section

Insert the following section immediately after section 5D—

**5E.** (1) The Cabinet Secretary responsible for matters relating to immigration shall establish the Citizenship and Permits Determination Advisory Committee, Permanent Residency Advisory Committee and such other committees as it shall be deemed necessary for effective administration of the Act’.

(2) The Cabinet Secretary shall prescribe the composition and functions of the committees established under subsection (1).

(a) by deleting the proposed amendments to the Refugees Act (No.13 of 2006), and substituting therefor the following—

Refugees Act (No. 10 of 2021)

28(7)

Delete the words “refugee identity card” and substitute therefor the words “Refugees Huduma Card”

### **NEW SCHEDULE**

**THAT**, the Bill be amended by inserting a new schedule immediately after the Second Schedule—

### **THIRD SCHEDULE**

[Section 60H(1).]

#### **Conduct of the business and affairs of the Board**

1. The Board shall meet at least once in every four months in any financial year for the dispatch of its business.

2. A meeting of the Board shall be held on such date and time as the Board may determine.
3. The chairperson shall, on the written application of at least one-third of the members of the Board, convene a special meeting of the Board.
4. Unless a majority of the members of the Board otherwise agree, at least fourteen days' notice shall be given to each member of the Board in relation to the convening of a meeting of the Board.
5. The quorum for the conduct of business at a meeting of the Board shall be five members.
6. Despite the provisions of paragraph 5, a meeting of the Board shall not be invalid merely because of a vacancy among the members of the Board.
7. The decisions of the Board shall be by concurrence of the members present but where concurrence is not achieved, decisions shall be by a majority of the members present and voting.
8. All instruments made by, and decisions of, the Board shall be signified in writing under the hand of the chairperson and secretary save as may be provided for in any other written law.
9. The Board may co-opt any person to attend and deliberate at its meetings if that person's knowledge or skills are necessary for the purposes of this Act.
10. A person who has been co-opted to attend and deliberate at a meeting of the Board shall not have a right to vote at the meeting.
11. The Board shall cause the minutes of its meetings to be entered in books kept and maintained for that purpose.
12. If a person is present at a meeting of the Board or any committee of the at which any matter is the subject of consideration and in which matter the person, the person's spouse or the person's immediate relative or associate is directly or indirectly interested in a private capacity, the person shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not take part in any consideration or discussion, or vote on any question touching on such matter unless the Board determines otherwise.
13. A disclosure of interest made under paragraph 12 shall be recorded in the minutes of the meeting at which it is made.

### **III. THE CHILDREN BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2021)**

- 1) Notice is given that the Chairperson of the Departmental Committee on Labour and Social Welfare intends to move the following amendments to the Children Bill (National Assembly Bill No. 38 of 2021) at the Committee Stage—

#### **LONG TITLE**

**THAT**, the Bill be amended by deleting the long title and substituting therefor the following-

“**AN ACT** of Parliament to give effect to Article 53 of the Constitution; to make provision for children rights, parental responsibility, alternative care of children including guardianship, foster care placement and adoption; to make provision for care and protection of children and children in conflict with the law; to make provision for and regulate the administration of children services; to establish the National Council for Children’s Services and for connected purposes “

#### **CLAUSE 2**

**THAT** clause 2 of the Bill be amended—

- (a) in the proposed definition of the term “abandoned” by deleting the word “of” appearing immediately after the word “period” in paragraph (b);
- (b) in the proposed definition of the term “child abuse” by deleting the words “failing to adequately supervise or protect the child” in paragraph (a) and substituting therefore the words “acts intended to cause harm or negligent acts or omissions that cause harm”;
- (c) by deleting the definition of the term “approved officer”;
- (d) in the proposed definition of the term “children’s rescue center” by inserting the word “by the Cabinet Secretary” immediately after the word “established”;
- (e) in the proposed definition of the term “children’s remand home” by deleting the word “are” appearing immediately after the word “law” and substituting therefor the words “maybe”;
- (f) by deleting the definition of the term “Director”;
- (g) by deleting the definition of the term “National Adoption Committee” ;

- (h) in the proposed definition of the term “nursery” by deleting the words “for reward” and substituting therefor the words “at a fee”;
- (i) in the proposed definition of the term “place of safety” by deleting the words “fit person” and substituting therefor the words “school, feeding centre, hospital”;
- (j) by deleting the definition of the term “intersex” and substituting therefor the following definition—

“intersex child” means a child with a congenital condition in which the biological sex characteristics cannot be exclusively categorised in the common binary of female or male due to inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns, which could be apparent prior to, at birth, in childhood, puberty or adulthood”;

- (k) in the proposed definition of the term “residence order” by inserting the following new paragraph immediately after paragraph (b) —

“(c) where the child is to live”

- (l) in the proposed definition of the term “restorative justice” by deleting the word “the” appearing immediately after the words “as well as”;
- (m) in the proposed definition of the term “step parent” by inserting the word “a” immediately after the word “means”;
- (n) by inserting the following new definitions in proper alphabetical sequence—

“existing Charitable Children’s Institution” means a charitable children institution registered, approved or licenced by the Council prior to the commencement of this Act;

“forced male circumcision” comprises all procedures involving partial or total removal of the male genitalia or other injury to the male genital organs, or any harmful procedure to the male genitalia, for non-medical reasons, that is performed with or without any undue influence, inducement, enticement, coercion, or intimidation on a male child —

- (a) without consent of the child's parents or guardian;
- (b) belonging to a community that does not practice male circumcision and without the consent of the child's parents or guardian;
- (c) with the intention to cause grievous harm or injury to a child;

(d) in a manner that infringes on a child’s right to privacy or subjects a child to ridicule, embarrassment, humiliation or otherwise harms a child;

but does not include a sexual reassignment procedure or a medical procedure that has a genuine therapeutic purpose;

“Ministry” means the Ministry responsible for matters relating to children  
“Principal Registrar” has the meaning assigned to it under the Births and Deaths Registration Act ;

“Secretary” means the Secretary of Children's Services appointed under section 35A;

### **NEW CLAUSE 3A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 3 —

Conflict of laws. 3A. (1) This Act shall prevail in the case of any inconsistency between this Act and any other legislation on children matters.

(2) Despite subsection (1), a provision in another legislation on children matters may prevail if it offers a greater benefit in law to a child.

(3) A judicial or administrative institution or any person making an interpretation as to conflict of any provision or laws shall have regard to the best interests of a child.

### **CLAUSE 5**

**THAT** clause 5 of the Bill be amended in sub clause (1) by inserting the words “protection” immediately after the word “wellbeing”.

### **CLAUSE 6**

**THAT**, clause 6 of the Bill be amended —

(a) in sub-clause (2) by deleting the words “his or her”; and

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

“(2A) The Principal Registrar shall take measures to ensure correct documentation and registration of intersex children at birth.

### **CLAUSE 7**

**THAT**, clause 7 of the Bill be amended in sub clause (3) by deleting the words “his or her” and substituting therefor the word “their”

### **CLAUSE 10**

**THAT** clause 10 of the Bill be amended—

(a) in sub clause (3) by deleting the word “Director” and substituting therefor the word “Secretary”; and

(b) in sub clause (7) by deleting the word “Director” and substituting therefor the word “Secretary”.

**CLAUSE 11**

**THAT** clause 11 of the Bill be amended—

- (a) in sub clause (1) by deleting the words “support him or her” and substituting therefor the words “maintain the child”;
- (b) in sub clause (4) by—
  - (i) deleting the word “and” appearing immediately after the word “poverty” and substituting therefor the words “disability or” in paragraph (c);
  - (ii) deleting the words “caregiver or providers religious, political, economic or any other personal goals” in paragraph (g) and substituting therefor the words “religious, political, economic or any other personal goals of the caregiver”;
- (c) in sub clause (6)-
  - (i) by deleting the word “Director” and substituting therefor the word “Secretary” appearing in paragraph (a);
- (d) in sub clause (7) by deleting the word “State” and substituting therefor the words “Cabinet Secretary responsible for matters relating to finance.

**CLAUSE 15**

**THAT**, clause 15 of the Bill be amended in sub clause (4)—

- (a) by inserting the words “age appropriate” immediately after the words “access to” in paragraph (a);
- (b) by deleting the words “his or her” in paragraph (b) and substituting therefor the word “their”; and
- (c) by inserting the words “age appropriate” immediately after the words “access to” in paragraph (e).

**CLAUSE 17**

**THAT**, clause 17 of the Bill be amended—

- (a) by deleting sub clause (4) and substituting therefor the following new sub clause—

“(4) The Cabinet Secretary responsible for matters relating to labour shall, within one year of the commencement of this Act, in consultation with the Cabinet Secretaries responsible for matters relating to children affairs and education, make Regulations prescribing the terms and conditions of work and the kind of work that may be engaged in by children in the following age categories—

- (a) children who have attained the age of thirteen but have not attained the age of sixteen years; and
- (b) children who have attained the age of sixteen but have not attained the age of eighteen years

Provided that the regulations shall take account of the best interest of the child.”

### **CLAUSE 19**

**THAT** clause 19 of the Bill be amended in sub clause (1) by deleting the words “or at a reduced cost”

### **NEW CLAUSE 19A**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 19—

Rights of intersex children.

**19A.** An intersex child shall have the right to be treated with dignity, and to be accorded appropriate medical treatment, special care, education, training and consideration as a special need category in social protection services.

### **CLAUSE 21**

**THAT** clause 21 of the Bill be amended in sub clause (1) by-

- (a) inserting the following new paragraph immediately after paragraph (e) —  
“(f) intersex genital mutilation; or”
- (b) deleting the last paragraph and substituting therefor the following new paragraph-  
“(g) any other cultural or religious rite, custom or practice that is likely to negatively affect the child's life, health, social wellbeing, dignity, physical, emotional or psychological development.”

### **CLAUSE 24**

**THAT** clause 24 of the Bill be amended in sub clause (3) by deleting the words “children with a disorder of sex development” and substituting therefor the words “intersex children”

### **CLAUSE 25**

**THAT** clause 25 of the Bill be amended by inserting the following new sub clause immediately after sub clause (2) —

“(3) The personal data concerning a child shall be processed only in accordance with the provisions of the Data Protection Act.”

### **CLAUSE 26**

**THAT** clause 26 of the Bill be amended—

- (a) in the marginal note by deleting the word “picket”;

- (b) in sub clause (1) by inserting the word “and unarmed, to” immediately after the word “peaceably”;
- (c) in sub clause (2) by deleting the word “and reputation” ;
- (d) in sub clause (3) by deleting the words “his or her” and substituting therefor the word “their”;
- (e) by deleting sub clause (4) and substituting therefor the following new sub clause—
- “(4) The right guaranteed under subsection (3) shall be exercised—
- (a) in accordance with the national values and principles of governance prescribed in Article 10 (2) of the Constitution;
- (b) voluntarily by a child and without any undue influence, coercion, inducement or enticement by any person.
- (f) by deleting the proposed sub clause (5).

**CLAUSE 28**

**THAT**, clause 28 of the Bill be amended in the marginal note by deleting the word “rights” and substituting therefor the word “duties”.

**CLAUSE 33**

**THAT**, clause 33 of the Bill be amended in sub clause (3)(c) by deleting the word “Director” and substituting therefor the word “Secretary”

**CLAUSE 35**

**THAT** Clause 35 of the Bill be deleted and substituted therefor by the following new clause —

Functions  
of the  
Cabinet  
Secretary.

**35.** (1) The Ministry responsible for matters relating to children shall—

- (a) ensure that every child achieves the full realization of their rights as set out in the Constitution and this Act;
- (b) ensure the welfare and protection of children in matters relating to rights of children under Article 53 of the Constitution, parental responsibility, fostering, adoption, custody, maintenance, guardianship, care and protection of children, and regulation and administration of children’s institutions;

- (c) ensure the development and implementation of relevant policies, programmes, plans and actions that ensure children's rights are realized including adoption, tracing and repatriation;
- (d) ensure formulation of relevant policies on the planning, financing and co-ordination of child welfare programmes and activities;
- (e) ensure the full implementation of Kenya's international and regional obligations relating to children and support the formulation of policies, programs, plans and actions for the promotion and protection of the rights of the child;
- (f) ensure affirmative action on matters relating to children;
- (g) make regulations for the effective discharge of functions under this Act; and
- (h) enter into agreements with any person, agency, organization, association, institution for any purpose related to this Act.

(2) The Cabinet Secretary shall be responsible for policy formulation and guidance of the functions including establishment of national government service delivery co-ordination units under subsection (1).

(3) The Cabinet Secretary for the time being responsible for matters relating to children's affairs shall, in consultation with the Council, make regulations on any matter—

- (a) to implement any provision of this Act; and
- (b) to implement within Kenya measures agreed upon within the framework of any treaty, international convention or regional intergovernmental agreement to which Kenya is a party.

(4) The Cabinet Secretary shall delegate the performance of functions in the manner provided for under subsections (5) (9) and sections 35B, 35E and 35F.

(5) The Principal Secretary shall be responsible for administration of the State department including establishing and administering the organizational structure of the state department comprising of technical directorates.

(6) A function that is not assigned under sections 35B, 35E and 35F is a function or power of the Secretary.

**35A.** (1) There is established the Office of the Secretary for Children Services which shall be an office in the public service.

(2) The Secretary shall be recruited through a competitive process and appointed by the Public Service Commission.

(3) A person may be appointed as the Secretary of Children Services if the person—

- (a) is a citizen of Kenya;
- (b) holds a relevant bachelors and masters' degree in social sciences from a university recognized in Kenya;
- (c) has at least ten years' experience in social work, education, administration and management, public administration, human resource or finance management; and
- (d) meets the requirements of Chapter Six of the Constitution.

**35B.** The Secretary shall—

Functions  
of the  
Secretary

- (a) regulate, coordinate, manage, and supervise children's officers in delivery of the welfare and administration of children services;
- (b) be responsible for establishing, administering and maintaining child protection centres ,rehabilitation schools and a remand homes in every county;
- (c) maintain up-to-date records and data on management of children services including access to welfare amenities for children;
- (d) investigate, monitor and report cases of children facing hardship;
- (e) identify, formulate and develop programmes to mitigate children facing hardship for the consideration of the Council;
- (f) assist children in hardship, including children with disabilities, children living in the street, orphaned and destitute children, children who abuse drugs, children who are sexually abused and children who are affected by domestic violence;
- (g) inquire, investigate, assess and prepare reports in accordance with this Act or any other written law in accordance with any direction of a court;
- (h) implement any direction of court including providing social or administrative support;
- (i) safeguard the welfare of a child placed under care by virtue of a care order or interim order;

- (j) procure accommodation for a child who is abandoned, in need of refuge, safety or appropriate custody;
- (k) provide services to trace, reintegrate or restore a lost or an abandoned child with parent or a guardian;
- (l) intervene and secure the removal of a child in need of care and protection to a place of safety;
- (m) promote family reconciliation and mediate in disputes involving children, parents, guardians or persons who have parental responsibility in the manner provided under this Act;
- (n) provide services to assess a child placed under care and support services to counsel, and guide children and families;
- (o) facilitate medical treatment for a child in police custody or in a children's remand home;
- (p) provide guidance and assistance for a child during a proceeding in court;
- (q) supervise administration of children institutions including children's rehabilitation centres, charitable children's institutions and remand homes in order to safeguard and promote the welfare of a children;
- (r) provide quarterly reports relating to management of children's rehabilitation centres, charitable children's institutions and remand homes;
- (s) safeguard the welfare of children in foster care; and
- (t) perform any other function as may be prescribed under this Act.

Powers of  
the  
Secretary.

**35C.** The Secretary shall have the power to do all such acts as the Secretary may deem to be necessary to carry out the functions of the Secretary and may appoint, assign or delegate a function to an officer or a person to carry out a function assigned under this Act.

Appointm  
ent of  
chief  
officers,  
children  
officers  
and such  
other  
officers.

**35D.** The Public Service Commission shall competitively recruit and appoint chief officers, children officers and such other officers as may be necessary to assist the Secretary in the performance of their duties under this Act.

- 35E.** The National Council for Children Services shall-
- (a) be the central authority for the purposes of the Hague Convention on Inter-Country Adoptions;
  - (b) advise the Cabinet Secretary on matters relating to child protection;
  - (c) collaborate with relevant state departments, state and non-state agencies to monitor and evaluate the efficiency and effectiveness of all social programmes established in the interests of children;
  - (d) facilitate, monitor and evaluate the enforcement of the principles of international law and treaty instruments binding on Kenya in respect of matters relating to children;
  - (e) develop policy, codes of conduct regulating good practice relating to child protection and child welfare;
  - (f) monitor and evaluate implementation of public education programs on the rights and welfare of children;
  - (g) advice on technical and support services to state and non-state agencies participating in child welfare programmes;
  - (h) prescribe training needs and requirements for authorized officers;
  - (i) formulate, approve, evaluate and monitor implementation of programmes to facilitate the full implementation of Kenya's international and regional obligations relating to children and support the formulation of appropriate reports under such obligations;
  - (j) formulate, approve, evaluate and monitor implementation of policies to regulate family empowerment and social security that are designed to alleviate the hardships which impair the social welfare of children;
  - (k) regulate, register, approve, evaluate and monitor implementation of child welfare programmes proposed by charitable children's institutions in accordance with this Act;
  - (l) formulate, approve, evaluate and monitor implementation of programmes to the create public awareness in all matters relating to the rights and welfare of children;

- (m) formulate, approve, evaluate and monitor implementation of programmes for the alleviation of the plight of children with special needs or requiring special attention;
- (n) promote, carry out and disseminate research relating to welfare and protection of children matters;
- (o) establish panels of persons from whom guardians *ad litem* appointed by the court in matters relating to children including adoption regulated under this Act;
- (p) to maintain and update a register of guardians ad litem;
- (q) establish, regulate and manage the activities of County Children Advisory Committees to advise on matters relating to the rights, welfare and protection of children;
- (r) promote linkages and exchange programmes with organisations in and outside Kenya;
- (s) establish, maintain and update a database of children in Kenya.
- (t) advise the Cabinet Secretary on matters relating to the formulation of national policy on domestic and inter-country adoptions;
- (u) accredit and license duly registered adoption and child protection agencies in order to facilitate domestic and inter-country adoptions;
- (v) establish, update and maintain a database for domestic and inter-country adoptions;
- (w) advise the Cabinet Secretary on matters relating to adoption practice and procedure;
- (x) provide professional and technical advice and support services to licensed adoption agencies on matters relating to adoption and to individuals who intend to undertake domestic and inter-country adoption;
- (y) receive, record and report from Charitable Children Institutions, adoption societies, parents and guardians, authorised officers and other relevant persons particulars of children available for adoption;
- (z) consult with Charitable Children Institutions and adoption societies on matters relating to adoption;
- (aa) establish, maintain and update a register of children free for adoption and prospective adoptive parents;
- (bb) certify and declare a child free for adoption;
- (cc) establish, maintain and update a database of adopted children in consultation with the Registrar;

- (dd) promote co-operation between state agencies, local and non-state agencies concerned with matters relating to adoption with central adoption authorities in other countries including tracing and repatriation of children in need of care and protection;
- (ee) review and make recommendations to the Cabinet Secretary for approval of fees chargeable by adoption societies for the processing of applications for adoption;
- (ff) make recommendations to the Cabinet Secretary on matters relating to the fees chargeable for registration and licensing of adoption societies;
- (gg) monitor, prepare and submit to the Cabinet Secretary annual reports on matters relating to adoption; and
- (hh) any other functions as maybe conferred on this Act.

Functions  
of the  
Society

**35F.** The Child Welfare Society of Kenya shall implement the following functions where there is no available capacity in places of safety established by the national government —

- (a) acting as the organization to provide national emergency response and rescue for children in care and protection;
- (b) providing programmes to support the welfare of children and vulnerable young persons;
- (c) acting as the primary adopting society to facilitate local and international adoptions;
- (d) strengthening families and providing families for separated children, children at risk of separation and children without appropriate care by facilitating: family empowerment and rehabilitation; local and international tracing and reunification; guardianship; foster care; custody, including providing professional social work assessment; adoption; and any other suitable means that the Society considers necessary;
- (e) developing and reviewing standards and guidelines that regulate any service provided by the Child Welfare Society relating to welfare and protection of a child;
- (f) managing places of safety including a child care facility, a group home, a foster care home, a child rescue centre, a child protection centre and a child protection unit;
- (g) receiving lost or abandoned children and children where there is available capacity in places of safety established by the national government;
- (h) rescuing, receiving and providing care to lost or abandoned children, children given up by their parents or committed by courts or the Secretary and undertake

- (i) family tracing, mediation and reunification where there is available capacity in places of safety established by the national government;
- (j) providing rapid response services by initiating urgent action in response to children in distress and rescue of children in distress including the provision of psychosocial support where there is available capacity in places of safety established by the national government;
- (k) providing advice to the public on adopting, fostering or guardianship in coordination with the Secretary and the Council; and
- (l) providing education, vocational training and skills to children within the care and protection of children by the Child Welfare Society.

**CLAUSE 37**

**THAT**, clause 37 of the Bill be deleted

**CLAUSE 39**

**THAT**, clause 39 of the Bill be deleted

**CLAUSE 40**

**THAT**, clause 40 of the Bill be amended by deleting the word “Director” and substituting therefor the word “Secretary”

**CLAUSE 41**

**THAT**, clause 41 of the Bill be amended in the marginal note by deleting the word “appointment” and substituting therefor the word “office”

**CLAUSE 43**

**THAT**, clause 43 of the Bill be deleted and substituted therefor with the following new clause—

Remuneration of members of the council. **43.** The Council shall pay its members such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, determine.

**CLAUSE 44**

**THAT**, clause 44 of the Bill be amended in sub clause (2) by deleting paragraph (a).

**CLAUSE 45**

**THAT**, clause 45 of the Bill be amended by deleting sub clause (1) and substituting therefor the following new sub clause—

**“45.** (1) There shall be a Chief Executive Officer of the Council who shall be competitively recruited and appointed by the Council and whose terms and conditions of service shall be determined by the Council on advise of the Salaries and Remuneration Commission.

**CLAUSE 51**

**THAT** clause 51 of the Bill be amended in sub clause (2) —

- (a) by inserting the following new paragraphs immediately after paragraph (a) —
  - (aa) the County Commissioner or a representative;
  - (ab) the County Director for Education or a representative;
- (b) by inserting the following new paragraphs immediately after paragraph (j) —
  - (k) the registrar in charge of the area or a representative;
  - (l) the Labour Officer in-charge of the area or a representative;
  - (o) a representative of the Council who shall be the Secretary to the Committee.
- (c) in sub clause (4) by-
  - (i) by deleting the words “the welfare of children” appearing under paragraph (b) and substituting therefor the words “children matters”;
  - (ii) by deleting the words “the welfare of” appearing under paragraph (c) and substituting therefor the words “children matters”;
  - (c) by deleting the words “the welfare of” appearing under paragraph (d).

**CLAUSE 52**

**THAT** clause 52 of the Bill be amended by deleting sub clause (3) and substituting therefor the following new sub clause —

(3) Without prejudice to the generality of subsections (1) and (2), the sub-county and other decentralized Children Committees shall—

- (a) facilitate information sharing and networking among key stakeholders in each sub-county and other decentralized units;
- (b) coordinate children matters and activities at the area of jurisdiction;
- (c) inspect, monitor and evaluate children facilities to ensure compliance with standards set by the Council;
- (d) make recommendations to the County Children Advisory Committee on any matters relating to children within the sub-county or area of jurisdiction;
- (e) provide information that may be required by the County Children Advisory Committee on any matters relating to children within the area of jurisdiction;
- (f) submit annual reports to the County Children Advisory Committee on matters relating to children within the area of jurisdiction;
- (g) promote awareness on children matters within the area of jurisdiction; and
- (h) mobilize resources to support the Council’s mandate at the sub-county level and area of jurisdiction.

**PART V**

**THAT**, the Title to Part of the Bill be amended by inserting the words “OF THE COUNCIL” immediately after the word “PROVISIONS”

**CLAUSE 58**

**THAT**, clause 58 of the Bill be deleted.

**CLAUSE 59**

**THAT**, clause 59 of the Bill be deleted.

**CLAUSE 60**

**THAT**, clause 60 of the Bill be deleted.

**CLAUSE 61**

**THAT**, clause 61 of the Bill be deleted.

**CLAUSE 62**

**THAT**, clause 62 of the Bill be deleted.

**CLAUSE 63**

**THAT**, clause 63 of the Bill be deleted.

**NEW PART VA**

**THAT** the following new Part be inserted immediately after PART V of the Bill.

“

The Role of County governments.

**63A.** (1) In the discharge of the functions specified in Part II of the Fourth Schedule to the Constitution, every county government shall—

- (a) provide or facilitate the provision of pre-primary education; and
- (b) provide or facilitate the provision of childcare facilities.

(2) Every county government shall, in consultation with the Cabinet Secretary, develop policies and guidelines for the better carrying out of the functions specified in subsection (1).

County government welfare schemes.

**63B.** A county government may, either by itself or jointly with other county governments, and in consultation with the Council, establish welfare schemes to provide or facilitate the provision of childcare facilities.”

**CLAUSE 64**

**THAT** clause 64 of the Bill be amended—

- (a) in sub clause (1) by deleting the words “foster care, adoption” and inserting the words “placement in alternative care”;
- (b) in sub clause (2) by deleting the words “one year” and substituting therefor the words “six months”;

(c) by deleting sub clause (3);

(d) by deleting sub clause (4);

(e) by deleting sub clause (5) and substituting therefor the following—

“(5) The Cabinet Secretary may collaborate with a county government for purposes of establishing a children rescue centre under subsection (1).”

(f) by inserting the following new sub clause immediately after sub clause (5) —

(6) The placement of a child in a children rescue centre shall only be done in cases where no alternative care placement is for the time being available to the child.

(7) A children rescue centre may admit a child to its care—

(a) in an emergency situation and the child is referred to the centre by way of an interim care order or a care order; or

(b) if the child is taken to the institution by an authorised officer or any person who has reasonable cause to believe that the child is in need of care and protection.

### **CLAUSE 66**

**THAT** the Bill be amended by deleting clause 66 and substituting therefor the following new clause—

Charitable  
Children’s  
Institutions

**66.**(1) No person shall register or operate a Charitable Children’s Institution except as provided in law.

(2) The Council shall —

(a) keep and maintain a register of all Charitable Children’s Institutions registered or approved by the Council prior to the commencement of this Act;

(b) prescribe the minimum standards and conditions for operation of existing Charitable Children’s Institutions

(3) An existing Charitable Children’s Institution shall ensure that every employee of the institution holds a valid certificate ascertaining that they have no pending criminal investigations;

(4) Without prejudice to the generality of subsection (4), the Council—

(a) shall inspect and assess whether the facilities and operations of existing Charitable Children’s Institution conform to the minimum standards and conditions set out in this Act and the regulations;

(b) may deregister a non-compliant existing Charitable Children’s Institution.

(4) Any person who—

- (a) operates an existing Charitable Children’s Institution contrary to the provisions of this Act;
- (b) admits a child to the care of an existing Charitable Children’s Institution which is not approved by the Council; or
- (c) implements or attempts to implement a children’s welfare programme, or to operate a Charitable Children’s Institution in the name of a Public Benefits Organisation, religious organisation or other association, whether incorporated or unincorporated, or otherwise in contravention of this subsection;

commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five million shillings, or to both.

### **CLAUSE 67**

**THAT**, the Bill be amended by deleting clause 67.

### **CLAUSE 68**

**THAT**, clause 68 of the Bill be amended in sub clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

- (a) a valid certificate issued by the relevant body certifying that there are no pending criminal investigations against the person or convictions for the offences under the Fourth Schedule;

### **CLAUSE 70**

**THAT** clause 70 of the Bill be amended in sub clause (1) by inserting the following words immediately after paragraph —

- “(aa) a children’s rescue centre established by the Cabinet Secretary under clause 64;”

### **CLAUSE 71**

**THAT**, clause 71 of the Bill be amended by deleting the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Council”

### **CLAUSE 73**

**THAT**, clause 73 of the Bill be amended by deleting sub clause (2) and substituting therefor the following new sub clause (2)—

“(2) Where a child is admitted to a Charitable Children’s Institution in accordance with subsection (1), the Charitable Children’s Institution shall—

- (a) within twenty-four hours, inform the Secretary that it has admitted a child; and

- (b) institute care proceedings under section 152 of this Act within seven days of the admission. “

### **CLAUSE 75**

**THAT**, the Bill be amended by deleting clause 75

**CLAUSE 76**

**THAT**, clause 76 of the Bill be amended by deleting the word “Director” and substituting therefor the word “Secretary”

**CLAUSE 77**

**THAT**, clause 77 of the Bill be amended by deleting the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Council”

**CLAUSE 78**

**THAT**, clause 78 of the Bill be amended —

- (a) by deleting the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Council”;
- (b) in sub-clause (5) by deleting the word “Director” and substituting therefor the word “Secretary”

**CLAUSE 80**

**THAT**, clause 80 of the Bill be amended by inserting the following new sub clause after sub clause (1)-

“(1A) The purpose of remand homes is to hold children in conflict with the law as a matter of last resort for their care and protection during trial before a verdict or placement”

**CLAUSE 81**

**THAT** clause 81 of the Bill be amended—

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (b) in subclause (1) by inserting the word “rehabilitation,” immediately after the words “to provide”.

**CLAUSE 82**

**THAT**, clause 82 of the Bill be amended in sub clause (2) by deleting sub clause (d) and substituting therefor the following new paragraphs —

- “(d) separate sections for various risk categories;
- (e) a counsellor or psychologist;”

**CLAUSE 83**

**THAT**, clause 83 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”

**CLAUSE 84**

**THAT**, clause 84 of the Bill be amended by deleting the word “Director” and substituting therefor the word “Secretary”

**CLAUSE 85**

**THAT**, clause 85 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”

**CLAUSE 86**

**THAT**, clause 86 of the Bill be amended in subclause (1) by deleting the word “Director” and substituting therefor the word “Secretary”

**CLAUSE 87**

**THAT**, clause 87 of the Bill be amended in subclause (1) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”

**CLAUSE 88**

**THAT**, clause 88 of the Bill be amended —

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (b) in sub clause (1) by inserting the word “psychologist” immediately after the words “advice of a”.

**CLAUSE 89**

**THAT**, clause 89 of the Bill be amended in sub clause (1) by deleting the word “tenor” and substituting therefor the word “tenure”

**CLAUSE 90**

**THAT**, clause 90 of the Bill be amended —

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (b) in sub clause (4) by deleting the words "foster care or adoption" and substituting therefor the words "appropriate alternative family care"

**CLAUSE 91**

**THAT**, clause 91 of the Bill be amended —

- (a) in subclause (1) by inserting the words “borstal institution” immediately after the word “school”;
- (b) in subclause (4) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (c) by inserting the following new sub clause immediately after sub clause (5):

“6. The Cabinet Secretary shall prescribe regulations for composition and conduct of an inspection committee.”

**CLAUSE 94**

**THAT**, clause 94 of the Bill be amended in sub clause (7) by deleting the words “and substitute for the sentence an order under section 148 (2)”

**CLAUSE 96**

**THAT**, clause 96 of the Bill be amended in sub clause (4)(b) by deleting the word “Director” and substituting therefor the word “Secretary”;

**CLAUSE 98**

**THAT**, clause 98 of the Bill be amended in sub clause (2) by inserting the words “or chronic illness” after the word “disability” in paragraph (b).

**CLAUSE 99**

**THAT** clause 99 of the Bill be amended in sub-clause (4) by deleting the words “in any case where the child is charged with any of the offences under the Seventh Schedule”

**CLAUSE 100**

**THAT**, clause 100 of the Bill be amended by inserting the following new sub clause immediately after sub clause (2) —

“(3) Where the Court orders or summons an expert pursuant to subsection (1), a party to the proceedings shall be given an opportunity to submit their views before the court makes an order .”

**CLAUSE 101**

**THAT** the bill be amended by deleting clause 101 and substituting therefor the following new clause —

Appointment  
guardian ad litem. of

101. A court before which a child is brought ought, and especially where that child is not represented by an advocate, may appoint *guardian ad litem* for the purposes of the proceedings in question and to safeguard the interests of the child.”

**CLAUSE 105**

**THAT**, clause 105 of the Bill be amended in sub clause (4) by deleting the word “Director” and substituting therefor the word “Secretary”;

**CLAUSE 125**

**THAT**, clause 125 of the Bill be amended in sub clause (9) (c) (ii) by deleting the word “Director” and substituting therefor the word “Secretary”;

**CLAUSE 128**

**THAT**, clause 128 of the Bill be amended by inserting the following new clause immediately after —

Customary guardianship.

**128A.** (1). In addition to the powers of the Court to appoint a guardian under section 125, the Court may appoint a guardian on application by any person in accordance with the customs, culture or tradition of a specific community in the manner prescribed—

- (a) where the child’s parents are deceased or cannot be found, and the child has no guardian or other person having parental responsibility over the child; or
- (b) where the child is one to whom section 124 applies.

(2) The Chief Justice shall make rules to guide the procedures for matters relating to customary guardianship.

**CLAUSE 129**

**THAT**, clause 129 of the Bill be amended-

- (a) in sub clause (1) by deleting the words “be determined” and substituting therefor the word “expire”;
- (b) in sub clause (3) by deleting the word “Director” in paragraph (d) and substituting therefor the word “Secretary”

**CLAUSE 131**

**THAT** clause 131 of the Bill be amended in sub clause (2) by deleting the word “Director” and substituting therefor the word “Secretary”

**CLAUSE 132**

**THAT** clause 132 of the Bill be amended by inserting the following words “and 129B” immediately after the words “section 126”

**CLAUSE 136**

**THAT** clause 136 of the Bill be amended by deleting the word “Director” and substituting therefor the word “Secretary”

**CLAUSE 137**

**THAT** clause 137 of the Bill be amended by inserting the expression “(1)” immediately after the number “137”.

**CLAUSE 146**

**THAT** clause 146 of the Bill be amended—

- (a) in paragraph (k) by inserting the words “intersex genital mutilation” immediately after the words “female genital mutilation”;
- (b) in paragraph (r) by inserting the words “mentally ill” immediately after the words “guardian is”;
- (c) in paragraph (u) by deleting the words “non-violent”.

**CLAUSE 147**

**THAT** clause 147 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”

**CLAUSE 152**

**THAT** clause 152 of the Bill be amended –

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (b) in sub-clause (7) by deleting the expression “(5)” appearing immediately after the word “subsection” and substituting therefor the expression “(6)”.

**CLAUSE 155**

**THAT** clause 155 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”.

**CLAUSE 156**

**THAT** clause 156 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”.

**CLAUSE 158**

**THAT** clause 158 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”.

**CLAUSE 172**

**THAT** clause 172 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”.

**CLAUSE 174**

**THAT** clause 174 of the Bill be amended by—

- (a) deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (b) deleting sub clause (2);
- (c) deleting sub clause (7).

**CLAUSE 175**

**THAT** clause 175 of the Bill be amended—

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (b) by deleting sub clause (2) and substituting therefor the following new sub clause—
  - (2) On receipt of the application referred to in subsection (1), the Secretary shall conduct due diligence, including ascertaining the criminal liability of the prospective foster parent, and prepare a report containing information relating to the matters specified in Rules made under this Act.
- (c) in sub-clause (4) by inserting the words “for a period not exceeding three months” immediately after the words “temporary foster care over the child”;
- (d) in sub-clause (5) by deleting the words “Officer Commanding Station in the local limits of the jurisdiction in which the child is accommodated” and substituting therefore the word “Secretary” .

**CLAUSE 176**

**THAT** clause 176 of the Bill be amended by inserting the following new subclauses immediately after sub clause (2)–

“(2A) A person who is convicted by a Court of competent jurisdiction for any of the offences in the Fourth Schedule or similar offences shall not be appointed to be a foster parent.”

“(2B) Subsection (2) shall not apply to a person who applies to be a foster parent to an intersex child.”

**CLAUSE 177**

**THAT** clause 177 of the Bill be amended–

(a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”

(b) by deleting the word “unless” and substituting therefor the word “if”.

**CLAUSE 178**

**THAT** clause 178 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”

**CLAUSE 179**

**THAT** clause 179 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”

**CLAUSE 180**

**THAT** clause 180 of the Bill be amended by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”

**CLAUSE 181**

**THAT** clause 181 of the Bill be amended–

(a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;

(b) in subclause (2) by –

(i) deleting the word “permanently” in paragraph (c)(ii);

(ii) inserting the word “family” immediately after the word “alternative” in paragraph c(iii)

**CLAUSE 186**

**THAT** clause 186 of the Bill be deleted.

**CLAUSE 187**

**THAT** clause 187 of the Bill be amended —

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (b) in sub clause (1), by deleting the words “National Adoption Committee” appearing immediately before the words “, in accordance” under paragraph (a) and substituting therefor the word “Council”;
- (c) by deleting the sub clause (3) and substituting therefor the following new sub clause—
  - “(3) An applicant shall not preselect a prospective adoptive child except—
    - (a) in the case of kinship adoption;
    - (b) where the applicant is a foster parent seeking to adopt a fostered child under the applicant’s care.”

**CLAUSE 189**

**THAT** clause 189 of the Bill be amended—

- (a) in subclause (2) by deleting the word “one” in subsection (b) and substituting therefor the word “both”;
- (b) in subclause (5) by-
  - (i) deleting paragraph (a);
  - (ii) deleting paragraph (c);
- (c) in subclause (6) by—
  - (i) deleting the words “charged or” in paragraph (c);
  - (ii) deleting the word “sole” in paragraph (f)

**CLAUSE 190**

**THAT** clause 190 of the Bill be amended in subclause (2)(a) by deleting the words “ six months; and” and substituting therefor the words “one year”

**CLAUSE 192**

**THAT** Clause 192 of the Bill be amended —

- (a) in sub clause (2) by deleting the words, “or without” appearing immediately after the words, “security bond with” ;
- (b) in subclause (4) by inserting the word “the Secretary” immediately after the words “the infant”;

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 192—

Review of adoption.

**192A.** (1) A person who is a biological parent of a child in respect of whom an adoption order has been granted by a Court may apply to the Court for review of the order for adoption on grounds that:

- (a) the child in respect of whom an adoption order has been granted by a Court was lost or abducted;
- (b) the biological parent reported to the Secretary and took all measures to trace, to find and to reunite with the child and were no successful; and
- (c) it is in best interest of child to reunite with the child with their biological parent.

(2) Where the court is satisfied with the grounds under subsection (1), the court may—

- (a) issue an order to revoke the adoption order and give custody of the child to the biological parent; or
- (b) review an existing order to give joint custody to a biological parent and an adoptive parent

(3) A court may give an order for joint custody where—

- (a) the child has been in the custody of the adoptive parents for more than five years; and
- (b) the child expresses that he or she would wish to maintain a relationship with the adoptive parents.

**CLAUSE 196**

**THAT** clause 196 of the Bill be amended in sub clause (1), by deleting the words “National Adoption Committee” appearing in paragraph (h) and substituting therefor the word “Council”

**CLAUSE 202**

**THAT** Clause 202 of the Bill be deleted and substituted therefor by inserting the following new clause—

Adopted  
Children  
Register.

**202.** (1) The Registrar shall maintain an Adopted Children Register and shall make such entries as the court may direct.

(2) A certified copy of an entry in the Adopted Children Register that is sealed or stamped with the seal of the Registrar shall be admitted as evidence of the adoption to which it relates.

(3) A certified copy of an entry in the Adopted Children Register that contains an entry of a record of the date of the birth or the country of birth of an adopted child, shall be admitted as evidence of the date or country of birth as if the copy were a certified copy of an entry in the Register of Births.

(3) The Court shall direct the Registrar to issue a certified copy of an entry in the Adopted Children Register on payment of such fee as the Registrar may prescribe.

(4) The Registrar shall maintain a record that traces the connection between an entry in the Register of Births and an entry that corresponds in the Adopted Children Register.

**CLAUSE 206**

**THAT** Clause 206 of the Bill be amended—

- (a) in subclause (4) by deleting the words “contribution order” and substituting therefor the words “maintenance order”.

**CLAUSE 210**

**THAT** clause 210 of the Bill be amended—

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”
- (b) in subclause (3) by deleting the words “National Adoption Committee” appearing in the opening statement and substituting therefor the word “Council”
- (c) in subclause (5)
  - (i) by deleting the words “National Adoption Committee”
  - (ii) by deleting the words “the Committee shall recommend to”
- (d) in subclause (7) by deleting the words “National Adoption Committee” and substituting therefor the word “Council”

**CLAUSE 211**

**THAT** Clause 211 of the Bill be amended in sub clause (1) by deleting the words “or otherwise authorized under this Act or other written law”

**CLAUSE 212**

**THAT** clause 212 of the Bill be amended—

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”;
- (b) in sub clause (1) by inserting the word “adoption” immediately after the words “under the” in paragraph (h);
- (c) in sub clause (2) by deleting the words “National Adoption Committee” appearing in paragraph (d) and substituting therefor the word “Council”.

**CLAUSE 213**

**THAT** clause 213 of the Bill be amended in sub clause (2) by deleting the words “National Adoption Committee” appearing in paragraph (a) and substituting therefor the word “Council”

**CLAUSE 217**

**THAT** clause 217 of the Bill be amended in paragraph (b) by deleting the word “*Kafaalah*” and substituting therefor the word “adoption”.

**CLAUSE 220**

**THAT** clause 220 of the Bill be amended—

Assessment of a  
child on arrest.

**220.** (1) A police officer who arrests, serves a summons or issues with a written notice to child shall notify the parent or guardian of the child and the Secretary or an authorised officer within twenty four hours.

(2) A Children’s Officer who receives a notification under subsection (1) shall assess and submit a report to the police officer on—

- (a) a social inquiry on the child to ascertain the social, economic, personal circumstances, and the needs of the child;
- (b) the child’s tendency to engage in activities which is in conflict with the law; and
- (c) the surrounding facts and circumstances leading to the child’s conduct in conflict with the law.

(3) A Children’s Officer shall assess a child under subsection (1) in an environment that is secure and is friendly to a child, that may include a room in a police station, the children’s Court or the offices of the Secretary.

(4) A Children’s Officer shall assess a child in a manner that is conducive to ease and comfort a child and shall have regard to the best interest of a child.

(5) The assessment of a child for purposes of this section shall be carried out in accordance with the Sixth Schedule.

**CLAUSE 232**

**THAT** clause 232 of the Bill be amended in sub clause (2) by deleting the words “for a not” and replacing therefor with “for a period not” paragraph (b)(ii)

**CLAUSE 234**

**THAT** clause 234 of the Bill be amended in sub-clause (3) by inserting the following new paragraph immediately after paragraph (c)—

“(d) a counsellor or psychologist.”

**CLAUSE 237**

**THAT** clause 237 of the Bill be amended in paragraph (b) by deleting the words “if he or she is charged with an offence under the Seventh Schedule”

**CLAUSE 241**

**THAT** clause 241 of the Bill be amended in sub clause (1) by inserting the words “or psychologist” immediately after the word “counsellor” in paragraph (h).

**CLAUSE 250**

**THAT** clause 250 of the Bill be amended —

- (a) by deleting the word “Director” wherever it appears and substituting therefor the word “Secretary”.

**NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 251—

Consequential  
Amendments.

**251A.** The Acts specified in the Seventh Schedule are amended in the manner specified in that Schedule.

**THIRD SCHEDULE**

**THAT**, the Third Schedule of the Bill be amended be deleted.

**FOURTH SCHEDULE**

**THAT**, the Fourth Schedule of the Bill be amended by—

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

1. Any sexual related offence.”

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

2. Any offence related to robbery.”

- (c) deleting paragraph 5 and substituting therefor the following new paragraph—

“5. Any offence related to drug trafficking. “

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

“8. Any offence relating to trafficking in persons.”

**FIFTH SCHEDULE**

**THAT**, the Fifth Schedule of the Bill be amended by inserting the following words immediately below the words ‘harm.’—

‘Offences under the Sexual Offences Act, 2006’

**SIXTH SCHEDULE**

**THAT** Sixth Schedule of the Bill be amended by deleting the words ‘the eleventh’ and substituting therefor the words ‘Part B of this’.

**SEVENTH SCHEDULE**

**THAT**, Bill be amended by deleting the Seventh Schedule and substituting therefor the following new Schedule—

Amendments of section 7  
of Cap.149.

1. Section 7 of the Births and Deaths Registration Act is amended by inserting the following new subsection immediately after subsection (1)—

“(2) The Register under subsection (1) shall include details of an intersex child and intersex person.”

Amendments of section 29  
of Cap. 149.

2. Section 29 of the Births and Deaths Registration Act is amended in paragraph (d) by inserting the following words immediately after the word “documents”—

“ that shall include details of an intersex child or an intersex person as”

**EIGHTH SCHEDULE**

**THAT**, Eighth Schedule of the Bill be amended by inserting the following new paragraphs immediately after paragraph 11 —

“12. (1) A Charitable Children’s Institution that is registered under section 60 of the Children Act, 2001 shall not undertake any activity after ten years from the date of the commencement with section 1 of this Act.

(2) The Cabinet Secretary shall, in consultation with Council, make regulations for carrying out of the provisions of sub-paragraph (1).

(3) Without prejudice to the generality of sub-paragraph (1) of the regulations shall provide for—

(a) the date that all Charitable Children’s Institution shall stop operating; or

(b) the transfer of a child who is a resident at a charitable children institution to an institution established by the government under section 64 of this Act.

## Adoption

13. (1) The terms of the Moratorium on inter-country adoptions issued on 26<sup>th</sup> November 2014 shall apply to matters relating to inter country adoption under this Act.

(2) The Cabinet Secretary shall make regulations for outlining the terms of the moratorium under sub-paragraph (1).

(3) Without prejudice to the generality of sub-paragraph (1) of the regulations shall provide for—

- (a) conduct a comprehensive audit of policy and legal framework, processes, procedures and players involved in the practice of adoption in Kenya on resident and intercountry adoptions;
- (b) establishment and regulation of a national adoption entity that monitors and coordinates the processing of inter country adoptions whose administration is independent of the Directorate of Children Services;
- (c) regulation and registration of an entity or entities that are accredited by the National Council for Children Services to process an inter country adoption;
- (d) regulation and registration of a child protection entity accredited by the National Council for Children Services that works together with an accredited entity under (b) to ensure tracing of a child during each step of processing of an inter country adoption;
- (e) the national adoption entity to maintain a register where the entity certifies in writing that it is satisfied that an intercountry adoption has only been considered because no parents have been found to locally adopt the child.
- (f) the national adoption entity to maintain a register of written court proceedings and an order of adoption (that are certified by the Court) and issue a certificate to confirm that the adoption conforms with Article 23 of the Hague Convention on inter country adoption;
- (g) a child protection entity accredited by the National Council for Children Services shall liaise with the Ministry responsible for internal affairs to process the changing of names and issue of a new birth certificate to the adoptive parents and liaise with the department responsible for immigration that issues a certificate clear the adopted child to receive a passport from the country of the adoptive parents.”

2) Notice is given that the Member for Kitui West (Hon. Edith Nyenze) intends to move the following amendments to the Children Bill, 2021 at the Committee Stage—

**CLAUSE 2**

**THAT**, clause 2 of the Bill be amended by inserting the following new definition in proper alphabetical sequence—

“child with severe disability” means a child with a severe chronic disability attributable to mental or physical impairment, or a combination of mental or physical impairments, that-

- (a) is likely to continue indefinitely;

- (b) results in substantial limitation of one or more functional capacities including mobility, communication, self-care, self-direction, interpersonal skills or limit functional capability to engage in some major life activities;
- (c) renders the child incapable of maintaining himself or managing his own affairs without the assistance of a guardian

**CLAUSE 11**

**THAT**, clause 11 of the Bill be amended—

- (1) in sub-clause (1) by inserting the words “with severe disability or” immediately after the word “every child”
- (2) in sub-clause (7) by inserting the words “including a child with severe disability” immediately after the words “welfare of the child”

**CLAUSE 19**

**THAT**, clause 19 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

- (3) A child with severe disability shall have the right to receive social assistance and to be accorded specialized medical treatment, special care, special education and training free of charge by the State where possible or at a reduced cost.
- (4) The State shall establish such institutions or facilities including child care facilities, health facilities and educational institutions as may be necessary to ensure the progressive realization of the right under this section.

**CLAUSE 63**

**THAT**, clause 63 of the Bill be amended by—

- (a) renumbering the existing provision as sub-clause (1)
- (b) inserting the following new sub-clause
  - (3) In designing and establishing the child welfare schemes under this section, a county government shall—
    - (a) have regard to the needs of children with disabilities including children with severe disabilities;
    - (b) ensure that the facilities where child welfare services are to be rendered are—
      - (i) accessible by children with disabilities;
      - (ii) well equipped to provide special care including medical care as may be required;
    - (c) ensure that persons employed to render child welfare services to children are qualified and trained to provide special care including medical care as may be required for the wellbeing of the children including children with disabilities.
  - (4) A child with disability shall have the right to access the child welfare schemes established by a county government and receive special care free of charge.

## **LIMITATION OF DEBATE**

The House resolved on Wedney, February 2, 2022 as follows-

### **Limitation of Debate on Bills sponsored by Parties or Committees**

- I. **THAT**, each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by the relevant Committee), and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each (if the Bill is not sponsored by either of them); and **THAT** priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in **THAT** order.

### **Limitation of Debate on Committee Reports**

- II. **THAT**, each speech in a debate on **Committee Reports (except for Reports of Audit Committees)**, including a Report of a Joint Committee of the Houses of Parliament or any other Report submitted to the House for which limitation of time has not been specified, shall be limited as follows:- A maximum of two and a half hours, with not more than twenty (20) minutes for the Mover in moving and five (5) minutes for any other Member speaking, **including** the Chairperson of the relevant Committee (if the Committee Report is not moved by the Chairperson of the relevant Committee) **except** for the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of ten (10) minutes each, and **THAT** ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; and further **THAT** priority in speaking shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in **THAT** order.

### **Limitation of Debate on Motions**

- III. **THAT**, each speech in a debate on any **Motion, including a Special motion** shall be limited in the following manner:- A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each, and **THAT** ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; and **THAT** priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in **THAT** order.

# **NOTICE PAPER**

## **Tentative business for**

**Thursday, April 14, 2022**

---

*(Published pursuant to Standing Order 38(1))*

It is notified that the House Business Committee has approved the following *tentative* business to appear in the Order Paper for Thursday, April 14, 2022-

**A. THE NATIONAL RATING BILL (NATIONAL ASSEMBLY BILL NO. 10 OF 2022)**

(The Leader of the Majority Party)

First Reading

*(Subject to Article 110(3) of the Constitution)*

**B. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 16 OF 2022)**

(The Hon. Joseph Oyula, M.P.)

First Reading

*(Subject to Article 110(3) of the Constitution)*

**C. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2022)**

(The Leader of the Majority Party)

First Reading

*(Subject to Article 110(3) of the Constitution)*

**D. COMMITTEE OF THE WHOLE HOUSE**

(i) The Huduma Bill (National Assembly Bill No. 57 of 2021)

(The Leader of the Majority Party)

*(If not concluded on Wednesday, April 13, 2022 – Afternoon Sitting)*

(ii) The Children Bill (National Assembly Bill No. 38 of 2021)

(The Leader of the Majority Party)

*(If not concluded on Wednesday, April 13, 2022 – Afternoon Sitting)*

(iii) The Universities (Amendment) Bill (National Assembly Bill No. 35 of 2021)

(The Leader of the Majority Party)

*(Subject to Standing Order 131)*

**E. MOTION- IMPLEMENTATION STATUS OF THE REPORT ON A PETITION ON IRREGULAR RENEWAL OF LEASES OF LAND BY DEL MONTE KENYA LIMITED**

(The Chairperson, Committee on Implementation)

*(If not concluded on Wednesday, April 13, 2022 – Afternoon sitting)*

F. MOTION- REPORT ON STALLED AND/OR INCOMPLETE PROJECTS INITIATED THROUGH THE NG-CDF BUT FALLING UNDER THE COUNTY GOVERNMENT FUNCTIONS

(The Chairperson, Select Committee on National Government Constituencies Development Fund)

G. MOTION - ELEVENTH REPORT ON AUDITED FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND FOR TWENTY-SIX (26) CONSTITUENCIES IN THE COAST REGION

(The Chairperson, Special Funds Accounts Committee)

H. MOTION - REPORT ON CONSIDERATION OF THE SPECIAL AUDIT REPORT ON UTILIZATION OF COVID-19 FUNDS BY THE KENYA MEDICAL SUPPLIES AUTHORITY

(The Chairperson, Public Investments Committee)

J. MOTION- IMPLEMENTATION STATUS OF THE REPORT ON A PETITION BY FORMER WORKERS OF THE LATE MAYER JACOB SAMUELS REGARDING THE INVASION AND EVICTION FROM THEIR LAND BY THE KENYA DEFENCE FORCES

(The Chairperson, Committee on Implementation)

K. ADJOURNMENT OF THE HOUSE IN ACCORDANCE WITH THE CALENDAR



# **APPENDIX**

## **NOTICE OF PETITIONS, QUESTIONS & STATEMENTS**

---

### **ORDER NO.7 - QUESTIONS**

---

It is notified that, pursuant to the provisions of Standing Order 42A (5), the following Members will ask **questions** for reply before the specified Committees-

#### **QUE. NO.**

#### **ORDINARY QUESTIONS**

108/2022

**The Member for Igembe Central (Hon. Kubai Iringo, MP) to ask the Cabinet Secretary for Interior and Coordination of National Government: -**

- (i) Could the Cabinet Secretary explain why the *Gazettement* of the Igembe Central Sub-County has been delayed since 2018 after public participation recommended the area as the Sub-County which qualifies in all aspects?
- (ii) Could the Cabinet Secretary explain when the subdivision of the said Sub-County will be *gazetted* considering that all other identified subdivisions in Meru County have been *gazetted*?
- (iii) When will the new Deputy County Commissioner for the new *Kiengu Sub-County* be posted to the Sub-County Headquarters for enhanced service delivery?

*(To be replied before the Departmental Committee on Administration and National Security)*

109/2022

**The Member for Luanda (Hon. Christopher Omulele, MP) to ask the Cabinet Secretary for Education: -**

- (i) Could the Cabinet Secretary explain why construction of *Emululu Technical Training Institute (TTI)* in Luanda Constituency has not commenced despite being allocated funds during the financial year 2021/2022?
- (ii) Could the Cabinet Secretary state the amount that was earmarked and utilized on the pre-design phase of the Institute, if any, during the financial year 2021/2022?
- (iii) What has caused the inordinate delay in the initiation of project works on the TTI, and when will the construction works commence?

*(To be replied before the Departmental Committee on Education and Research)*

110/2022

**The Member for Teso North (Hon. Oku Kaunya, MP) to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development: -**

- (i) Could the Cabinet Secretary explain why the renovation of *Malaba Railway Station* and construction of the *Malaba Railway Container Depot* have stalled despite having been funded?
- (ii) Could the Cabinet Secretary indicate any challenges faced by the contractor, who has since abandoned the site and has failed to meet his contractual obligations on the two projects including failure to pay casual labourers?
- (iii) What steps is the Ministry taking to ensure that the construction of the two projects is completed considering their importance in boosting the transport network and improving the economy of the region?

*(To be replied before the Departmental Committee on Transport, Public Works and Housing)*

# ORDER NO.7 - STATEMENTS

---

It is **notified** that, pursuant to the provisions of Standing Order 44(2)(c) the following **Statement** will be responded to -

No.	Subject	Member	Relevant Committee
1.	The repatriation of Kenyans stranded in Ukraine	<i>Hon. Zuleikha Hassan, MP (Kwale County)</i>	D.C. Defence and Foreign Relations

---