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TWELFTH PARLIAMENT – (FIFTH SESSION)

THE NATIONAL ASSEMBLY
COMMUNICATIONS FROM THE CHAIR

_____ (No. 31 of 2021) _____

**ON THE INDIVIDUAL MEMBERS' BILLS PENDING BEFORE COMMITTEES
OF THE HOUSE**

Honourable Members, you will recall that in September 2020, I did update the House on the status of Bills sponsored by individual Members that were pending before various Committees of the House. At the time, forty-five (45) such Bills had been published and were at different stages of processing, with twenty-four (24) Bills having been considered by Committees and reports thereof *tabled* in the House.

Honourable Members, on the same breath, I wish to apprise the House that, as at today, sixty (60) individual Members' Bills are currently before the House at various stages of consideration. For clarity, the said Bills are at the following various stages -

- (1) Five (5) are awaiting Committee of the Whole House;
- (2) Four (4) are currently undergoing Second Reading;
- (3) Fifty (50) are awaiting Second Reading; and,
- (4) One (1) is awaiting First Reading.

Honourable Members, of interest are the fifty-three (53) Bills that are awaiting Second Reading.

During its regular review of business pending before the House for purposes of prioritizing consideration, the House Business Committee observed that out of the fifty-three (53) Bills awaiting Second Reading, Reports on consideration of Bills by the relevant committees pursuant to the provisions of Standing Order 127, in respect of twenty seven (27) Bills were yet to be *tabled* in the House as here below—

(1) Bills before the Departmental Committee on Communication, Information and Innovation –

- (i) The Information Communication Technology Practitioners Bill (NA Bill No. 38 of 2020) by the Hon. Godfrey Osotsi, MP, which was read a First Time on 22nd December 2020; and,
- (ii) The Computer Misuse and Cybercrimes (Amendment) Bill (NA Bill No. 11 of 2021) by the Hon. Aden Duale, EGH, MP, which was read a First Time on 9th June 2021.

(2) Bills before the Departmental Committee on Education and Research –

- (i) The Higher Education Loans Board (Amendment) Bill (NA Bill No. 29 of 2020) by the Hon. Gideon Keter, MP, having been read a First Time on 8th October 2020; and,
- (ii) The Higher Education Loans Board (Amendment) Bill (NA Bill No. 37 of 2020) by the Hon. John Mwirigi, MP, which was read a First Time on 9th June 2021.

(3) Bills before the Departmental Committee on Finance and National Planning –

- (i) The Public Finance Management (Amendment) Bill (NA Bill No. 22 of 2019) by the Hon. Kimani Ichung'wah, MP, which was read a First Time on 2nd May 2019;
- (ii) The County Governments' Retirement Scheme Bill (NA Bill No. 29 of 2019) by the Hon. Chachu Ganya, MP, having been read a First Time on 8th May 2019;
- (iii) The Parliamentary Pensions (Amendment) (No. 2) Bill (NA Bill No. 56 of 2019) by the Hon. Wangari Mwaniki, MP, which was read a First Time on 24th July 2019;
- (iv) The Pensions (Amendment) Bill (NA Bill No. 26 of 2020) by the Hon. Didmus Wekesa Barasa, MP, which was read a First Time on 10th September 2020;
- (v) The Public Procurement and Asset Disposal (Amendment) Bill (NA Bill No. 34 of 2020) by the Hon. Richard Tongi, MP having been read a First Time on 22nd December 2020;
- (vi) The Public Debt Management Authority Bill (NA Bill No. 36 of 2020) by the Hon. Sakwa J. Bunyasi, MP, which was read a First Time on 22nd December 2020;
- (vii) The Kenya Deposit Insurance (Amendment) Bill (NA Bill No. 43 of 2020) by the Hon. Abdul Rahim Dawood, MP, which was read a First Time on 9th June 2021;
- (viii) The Central Bank of Kenya (Amendment) Bill (NA Bill No. 47 of 2020) by the Hon. Gideon Keter, MP, having been read a First Time on 25th January 2021;

- (ix) The Public Procurement and Asset Disposal (Amendment) (No.3) Bill (NA Bill No. 49 of 2020) by the Hon. Benjamin Gathiru Mwangi, MP which was read a First Time on 9th June 2021; and
- (x) The Poverty Eradication Authority Bill (NA Bill No. 13 of 2020) by the Hon. John Waluke Koyi, MP, having been read a First Time on 11th June 2021.

(4) Bills before the Departmental Committee on Health –

- (i) The Kenya Food and Drugs Authority Bill (NA Bill No. 31 of 2019) by the Hon. (Dr.) Robert Pukose, MP, which was read a First Time on 2nd May 2019;
- (ii) The Radiographers Bill (NA Bill No. 47 of 2019) by the Hon. Sabina Chege, MP, which was read a First Time on 11th September 2019;
- (iii) The Health (Amendment) Bill (NA Bill No. 28 of 2020) by the Hon. Alice Wahome, MP, which was read a First Time on 8th October 2020;
- (iv) The Community Health Workers Bill (NA Bill No. 30 of 2020) by the Hon. Martin Peters Owino, MP, which was read a First Time on 22nd December 2020;
- (v) The Pharmacy and Poisons (Amendment) Bill (NA Bill No. 1 of 2021) by the Hon. Alfred Kiptoo Keter, MP, which was read a First Time on 9th June 2021; and,
- (vi) The Health (Amendment) Bill (NA Bill No. 14 of 2021) by the Hon. Mwambu Mabongah, MP, having been read a First Time on 9th June 2021.

(5) Bills before the Departmental Committee on Justice and Legal Affairs –

- (i) The Constitution of Kenya (Amendment) (No.6) Bill (NA Bill No. 76 of 2019) by the Hon. Vincent Mogaka, MP, which was read a First Time on 4th December 2019;
- (ii) The Sexual Offences (Amendment) Bill (NA Bill No. 24 of 2020) by the Hon. Gathoni Wamuchomba, MP, having been read a First Time on 10th September 2020;
- (iii) The Constitution of Kenya (Amendment) Bill (NA Bill No. 40 of 2020) by the Hon. Jeremiah Kioni, MP, which was read a First Time on 22nd December 2020;
- (iv) The Criminal Procedure Code (Amendment) Bill (NA Bill No. 41 of 2020) by the Hon. Nelson Koech, MP, which was read a First Time on 25th February 2021; and,
- (v) The Public Participation (No. 2) Bill (NA Bill No. 71 of 2019) by the Hon. Chris Wamalwa, MP, which was read a First Time on 30th October 2019.

(6) Bills before the Departmental Committee on Labour and Social Welfare –

- (i) The Breastfeeding Mothers Bill (NA Bill No. 74 of 2019) by the Hon. Sabina W. Chege, MP, having been read a First Time on 6th November 2019;
- (ii) The Children (Amendment) Bill (NA Bill No. 46 of 2020) by the Hon. George Peter Kaluma, MP, which was read a First Time on 22nd December 2020; and,

(iii) The Institute of Social Work Professionals Bill (NA Bill No. 31 of 2020) by the Hon. Joshua Kivinda Kimilu, MP, which was read a First Time on 22nd December 2020.

(7) With respect to the Departmental Committee on Transport, Public Works and Housing, records indicate that only one Individual Member Bill is pending tabling of report. This is The National Construction Authority (Amendment) Bill (NA Bill No. 45 of 2020) sponsored by the Hon. David Gikaria, MP, which was read a First Time on 9th June 2021.

Honourable Members, as you may have noticed, some Bills that have been pending before the respective Committees were introduced in the House during the Third Session (that is 2019). They have been pending for that long and now stand the risk of lapsing at the end of the Fifth Session pursuant to the provisions of Standing Order 141 (*Lapsing and re-introduction of Bills*) as read together with the resolution of the House of December 3, 2020.

This is regrettably unfortunate and might be construed by the sponsors of the affected Bill as a calculated attempt by Committees to stifle their constitutional mandate of legislating.

Honourable Members, let it not be lost of Committees that indeed, Standing Order 127 (4) obligates a Committee to which a Bill is committed to report to the House **within twenty one calendar days of such committal.**

Whereas the said Standing Order permits the House Business Committee to schedule Second Reading of a Bill after twenty-one days even if the relevant Committee has not tabled a report on the Bill, the importance of having Committee reports on Bills before commencement of Second Reading need not be over-emphasized.

For the information of Hon. Members, Committee reports on Bills not only inform and enrich debate on the Bill, but also most importantly, espouse the views and recommendations of the public, which legitimizes the legislative process and cushions the House from judicial review under Article 118 of the Constitution (*Public Access and Participation*).

Honourable Members, I also hasten to remind Committees of the ramifications of Standing Order 127(5) regarding failure to table reports on Bills within the stipulated timeline. For clarity, the said Standing Order provides as follows –

*"If for any reason, at commencement of Second Reading the report has not been presented, the Committee concerned shall report progress to the House, **and the failure to present the report shall be noted by the Liaison Committee for necessary action**".*

I therefore encourage Committees to have fidelity on the dictates of Standing Order 127, which is intended to enrich the law making process rather than mete punishment to Committees for non-compliance.

Honourable Members, the Leadership of the House, through the House Business Committee, continues to play its part in ensuring that individual Members' legislative business is considered and concluded. You may be aware of the progressive measures that the Leadership has consistently instituted to avail accelerate processing of individual Member Bills and prioritize their consideration by the House. You may recall that, in February 2019, upon a resolution of the House Business Committee, I ordered publication of thirty (30) individual Members' legislative proposals that had over-stayed in Committees during pre-publication scrutiny. In that Session, the number of individual Member Bills shot steeply.

On June 8, 2021, the House Business Committee moved this House to resolve to accord priority to individual Members' business during the Sittings of the House every Thursday Afternoon. Further, the House Business Committee has proposed to the House to alter its Calendar for Fifth Session so as to extend the upcoming recess from two to three weeks.

Honourable Members, The intention of the Leadership is largely to avail more time to Committees to consider Bills pending before them, and submit reports to the House, having undertaken public participation as required under Article 118 of the Constitution as read together with Standing Order 127(3). **I therefore encourage Chairpersons of the concerned Committees to endeavor to prioritize the listed Bills during the recess period and table their Reports in the House as soon as possible.** This will enable the House Business Committee to also prioritize the Bills for consideration at Second Reading and subsequent stages by the House in good time.

Having said that, **Honourable Members,** it is important to take note that, some of the individual Members' Bills awaiting Second Reading have already been overtaken by events. They include, but may not necessarily be limited to the Independent Electoral and Boundaries Commission (Amendment) Bill, 2019 and the Excise Duty (Amendment) Bill, 2020, both sponsored by the Hon. Jude Njomo, MP. Further, there may be Bills whose sponsors no longer have the interest to pursue for one reason or the other. Whereas it is the responsibility of the sponsor to cause the withdrawal, in accordance with Standing Order 140, the relevant Committees have a duty to report to the House such developments.

Honourable Members, from a review of individual Members' Bills awaiting Second Reading, the House Business Committee observed that certain Bills, such as the one to amend the Public Procurement and Asset Disposal Act and another to amend the Public Finance Management Act, are similar in nature.

As such, the Committee will take a decision on which Bills to schedule first, the import of which is that other Bill might fall. With regard to individual Members' Bills seeking to amend the Constitution, I urge the Departmental Committee on Justice and Legal Affairs to take a deliberate decision on the said Bills and make appropriate recommendations to the House on how to proceed with those Bills, having undertaken public participation in cases where that has not been done.

Honourable Members, allow me to also speak to the Bills referred to the Budget and Appropriations Committee for determination of 'Money Bill' implication in accordance with Article 114(2) of the Constitution and Standing Order 114(3)(b), before being referred to the relevant Departmental Committees. I urge the Committee to hasten the processing of such Bills and make appropriate recommendations to the House.

Further, and so as to keep the House abreast on business before committees, I direct the Liaison Committee, which is responsible for coordinating the operations of all committees, to provide regular reports of pending business before all committees on Thursdays of every sitting week by way of a Statement. The Committee is further directed to impress upon committees of the House to prioritize consideration of Bills pending before them.

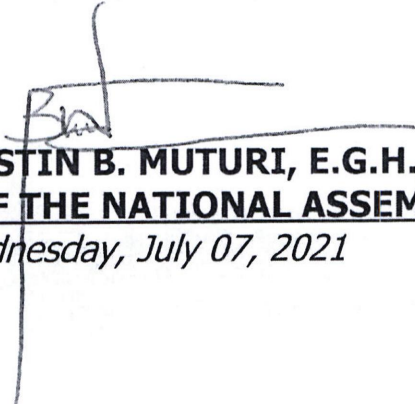
In summary, **Hon. Members,** I wish to guide as follows –

- (1) THAT,** all Committees should prioritize consideration of individual Members' Bills and any other Bills referred to them during the recess and table reports thereof as soon as the House resumes sittings from 3rd August 2021. Further, they are directed to prioritize consideration Bills pending before them in their Work Plans for the Financial Year 2021/22 as a matter of principle;

- (2) **THAT**, in the case of several Bills seeking to amend similar laws, the House Business Committee shall determine which of the Bills to schedule for Second Reading and subsequent stages, the import of which the other Bills might fall;
- (3) **THAT**, the Liaison Committee is henceforth directed to be reporting to the House *on the Status of Business Pending before all Committees* by way of a Statement to be made in the House every last Thursday of each Month whenever the House is in Session.

The Committees and indeed the House are accordingly guided.

I thank you.



THE HON. JUSTIN B. MUTURI, E.G.H., M.P.
SPEAKER OF THE NATIONAL ASSEMBLY

Wednesday, July 07, 2021