 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 13 AUG 2025	<b>DAY:</b> Wednesday
<b>TABLED BY:</b>	Hon. James Njoroge, MP Chairperson
<b>CLERK-AT THE-TABLE:</b>	A. Shibusko

*Approved*  
SNA  
13/8/25



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**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – FOURTH SESSION  
DEPARTMENTAL COMMITTEE ON HEALTH**

**REPORT ON THE  
HARMONIZATION OF THE PROPOSED AMENDMENTS TO THE ASSISTED  
REPRODUCTIVE TECHNOLOGY BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 61  
OF 2022) BY THE HON. MILLIE ODHIAMBO, MP**

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## **CHAIRPERSON'S FOREWORD**

This Harmonization Report presents the proceedings of the Departmental Committee on Health on its consideration and harmonization of the proposed amendments to the Assisted Reproductive Technology Bill, 2022 (National Assembly Bill No. 61 of 2022), as proposed by the Committee and Hon. Peter Kaluma, MP.

The Bill, sponsored by Hon. Millie Odhiambo, MP, was published on 24th November 2022 and read for the First Time on Wednesday, 3<sup>rd</sup> May 2023. It was subsequently committed to the Departmental Committee on Health for consideration, facilitation of public participation pursuant to Article 118 of the Constitution, and reporting to the House in accordance with Standing Order 127(1).

The Bill has fifty-two (52) clauses and seeks to provide for the regulation of assisted reproductive technology, to prohibit certain practices in connection with assisted reproductive technology, to establish an Assisted Reproductive Technology Directorate, and to make provision in relation to children born through Assisted Reproductive Technology processes and for connected purposes.

During the Committee of the Whole House on Wednesday, 11<sup>th</sup> June 2025, the Bill was referred back to the Departmental Committee on Health for the harmonization of the proposed amendments by the Committee and Hon. Peter Kaluma, MP.

The Committee is grateful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support extended throughout the process.

On behalf of the Committee, and pursuant to Standing Order 127(4), it is my honour and privilege to table this Report on the HARMONIZATION process undertaken by the Departmental Committee on Health in its consideration of the Assisted Reproductive Technology Bill, 2022 (National Assembly Bill No. 61 of 2022).

**HON. DR. NYIKAL JAMES WAMBURA, CBS, MP**  
**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH**

## CHAPTER ONE

### 1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Health is established pursuant to the provisions of Standing Order 216 of the National Assembly Standing Orders and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee include:
  - a) *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
  - b) *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
  - ba) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
  - c) ***To study and review all legislation referred to it;***
  - d) *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
  - e) *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
  - f) *Vet and report on all appointments where the constitution or any other law requires the national Assembly to approve, except those understanding Order 204 (Committee on appointments);*
  - g) *To examine treaties, agreements and conventions;*
  - h) *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
  - i) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
  - j) *To examine any questions raised by Members on a matter within its mandate.*
2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters related to health, medical care and health insurance including universal health coverage.
3. In executing its mandate, the Committee oversees the Ministry of Health with its two State Departments namely the State Department for Medical Services and the State Department for Public Health and Professional Standards.

## 1.2 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Health was constituted by the House on 27<sup>th</sup> October 2022 and comprises of the following Members:

### **Chairperson**

Hon. (Dr.) Nyikal James Wambura, MP  
Seme Constituency

### **ODM Party**

### **Vice-Chairperson**

Hon. Ntwiga, Patrick Munene, MP  
Chuka/Igambang'ombe Constituency

### **UDA Party**

Hon. (Dr.) Robert Pukose, MP  
Endebess Constituency

### **UDA Party**

Hon. Owino Martin Peters, MP  
Ndhiwa Constituency

### **ODM Party**

Hon. Kibagendi Antoney, MP  
Kitutu Chache South Constituency

### **ODM Party**

Hon. Muge Cynthia Jepkosgei, MP  
Nandi (CWR)

### **UDA Party**

Hon. Mathenge Duncan Maina, MP  
Nyeri Town Constituency

### **UDA Party**

Hon. Wanyonyi Martin Pepela, MP  
Webuye East Constituency

### **Ford Kenya Party**

Hon. Julius Ole Sunkuli Lekakeny, MP  
Kilgoris Constituency

### **KANU**

Hon. Kipng'ok Reuben Kiborek, MP  
Mogotio Constituency

### **UDA Party**

Hon. Mukhwana Titus Khamala, MP  
Lurambi Constituency

### **ANC Party**

Hon. Maingi Mary, MP  
Mwea Constituency

### **UDA Party**

Hon. (Prof.) Jaldesa Guyo Waqo, MP  
Moyale Constituency

### **UPIA Party**

Hon. Lenguris Pauline, MP  
Samburu (CWR)

### **UDA Party**

Hon. Oron Joshua Odongo, MP  
Kisumu Central Constituency

### **ODM Party**

### 1.3 COMMITTEE SECRETARIAT

5. The Committee is supported by the following secretariat:

Mr. Hassan Abdullahi Arale  
**Clerk Assistant I/Head of Secretariat**

Ms. Gladys Jepkoech Kiprotich  
**Clerk Assistant III**

Mr. Timothy Kimathi  
**Clerk Assistant III**

Ms. Marlene Ayiro  
**Principal Legal Counsel I**

Ms. Sheila Chebotibin  
**Principal Serjeant-At-Arms**

Ms. Faith Chepkemai  
**Legal Counsel II**

Ms. Abigael Muinde  
**Research Officer III**

Mr. Hiram Kimuhu  
**Fiscal Analyst II**

Ms. Rahab Chepkilim  
**Audio Recording Officer II**

Mr Eric Lungai  
**Hansard Reporter II**

Mr. Hillary Mageka  
**Media Relations Officer III**

## CHAPTER TWO

### **2.0 OVERVIEW OF THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL, 2022, NATIONAL ASSEMBLY BILL NO. 61 OF 2022.**

6. The Bill seeks to provide for the regulation of assisted reproductive technology, to prohibit certain practices in connection with assisted reproductive technology, to establish an Assisted Reproductive Technology Directorate and to make provision in relation to children born through assisted reproductive technology processes and for connected purposes.
7. **PART I** (Clause 1-4) of the Bill contains the preliminary provisions on the short title, interpretation, application and object and purpose of the Act.
8. **PART II** (Clause 5-10) of the Bill provides for the establishment of the Assisted Reproductive Technology Directorate, its composition and functions. It also sets out the obligations of the National Government and County Governments in matters of Assisted Reproductive Technology.
9. **PART III** (Clause 11-19) of the Bill provides for matters regulating prohibited activities in relation to the use of embryos, use of gametes, and use of gametes obtained from a minor. It also provides for obtaining the consent of parties who go through assisted reproductive technology processes, and sets out the circumstances for undertaking assisted reproductive technology and the circumstances under which assisted reproductive technology is precluded.
10. **PART IV** (Clause 20-32) of the Bill provides for the rights of commissioning parents, donors and children in relation to the right to assisted reproductive technology, the right to assisted reproductive technology by intersex persons. It also makes provisions on the use of sperm after the death of a man, consent to assisted reproductive technology services, the duties of assisted reproductive technology experts, the rights that accrue to children born through assisted reproductive technology, obligations under surrogacy agreements, prohibition of sex selection and commercial artificial reproductive technology and sale of human gametes, zygotes and embryos.
11. **PART V** (Clause 33-37) of the Bill provides for matters regulating access to information as regards assisted reproductive technology including the establishment of an assisted reproductive technology register, the processing and provision of information by the Assisted Reproductive Technology Directorate and restrictions on disclosure of information.
12. **PART VI** (Clause 38-49) of the Bill provides for the regulation of licensing to offer assisted reproduction related services. It also sets out the conditions to be met before a licence is issued and revoked as well as the right of review and appeal where a licence is denied.
13. **PART VIII** (Clause 50 and 51) of the Bill contains miscellaneous provisions on general penalty and offences related to the regulation of assisted reproductive technology.

14. **PART IX** (Clause 52) of the Bill provides for the making of Regulations by the Cabinet Secretary responsible for health in consultation with the Assisted Reproductive Technology Directorate.

## CHAPTER THREE

### **3.0 CONSIDERATION AND HARMONIZATION OF THE PROPOSED AMENDMENTS TO THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 61 OF 2022)**

#### **3.1 Referral of the Assisted Reproductive Technology Bill (National Assembly Bill No. 61 of 2022)**

15. The Assisted Reproductive Technology Bill (National Assembly Bill No. 61) sponsored by Hon. Millie Odhiambo, MP was read a First Time on 3<sup>rd</sup> May, 2023 and committed to the Departmental Committee on Health for facilitation of public participation pursuant to Article 118 of the Constitution and reporting to the House, pursuant to Standing Order 127(1).
16. On Wednesday, 11<sup>th</sup> June, 2025, during the Committee of the Whole House, the Bill was referred back to the Department Committee on Health for Harmonization of the amendments proposed by the Committee and the Hon. Peter Kaluma, MP, to the Bill.
17. Pursuant to the provisions of Standing Order 131, the Speaker directed that all the amendments received be referred to the Departmental Committee on Health and be subjected to Harmonization.

#### **3.2 COMMITTEE CONSIDERATION OF THE SUBMISSIONS**

18. The Committee undertook the Harmonization process with Hon. Millie Odhiambo, MP (the sponsor of the Bill) and Hon. Peter Kaluma, MP, and made observations and recommendations on all the proposed amendments.

## CHAPTER FOUR

### 4.0 COMMITTEE OBSERVATIONS ON THE HARMONIZATION OF PROPOSED AMENDMENTS TO THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 61 OF 2022)

19. The Committee, having considered the amendments as proposed to the Assisted Reproductive Technology Bill, 2022 by the Committee and Honourable Members, the Committee made the following observations:

- (a) The Regulations under the proposed Bill are too technical, substantive and of great significance and as such they require affirmative resolution, that is, they should be approved in draft form by both Houses of Parliament before they are published by the Cabinet Secretary for Health;
- (b) There is a need to restrict the provision of assisted reproductive technology services to only Kenyan citizens to prevent the exploitation of the citizens of Kenya; and
- (c) The Bill also protects the rights of children born out of assisted reproductive technology including in their registration in line with Article 53 of the Constitution and the Children Act, (Cap. 141).

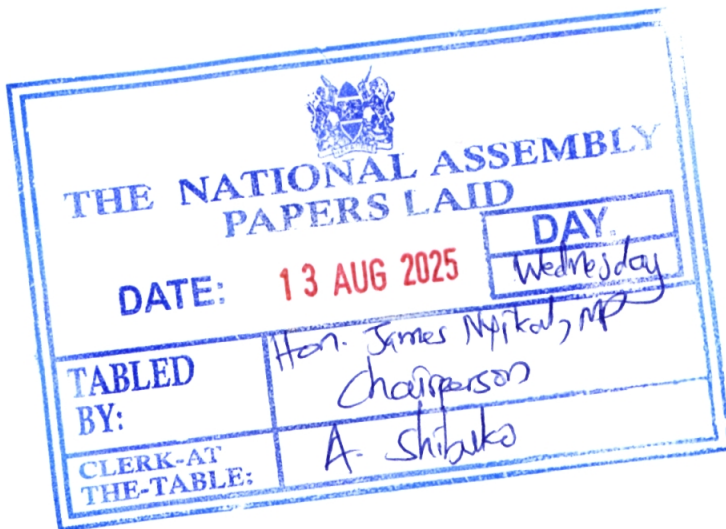
CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATIONS ON THE HARMONIZATION OF PROPOSED AMENDMENTS TO THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 61 OF 2022)

20. The Committee, having considered the amendments to the Assisted Reproductive Technology Bill (National Assembly Bill No. 61 of 2022) proposed by the Committee and Hon. Peter Kaluma, MP recommends that the House **approves** the Bill with the amendments set out in Chapter six of this report.

SIGNED .....  ..... DATE ..... 12/8/2025 .....

HON. DR. NYIKAL JAMES WAMBURA, CBS, MP  
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH



## CHAPTER SIX

### 6.0 SCHEDULE OF AMENDMENTS

21. Having considered all the proposed amendments as proposed by the Committee and Hon. Peter Kaluma, MP, the Committee adopted the following amendments;

#### LONG TITLE

**THAT**, the Long Title of the Bill be amended by deleting the words “to establish an Assisted Reproductive Technology Directorate”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

#### CLAUSE 2

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

- (a) by deleting the definition of the term “assisted reproductive technology” and substituting therefor the following new definition—

“assisted reproductive technology” means all techniques that attempt to obtain a pregnancy by handling the sperm or the oocyte outside the human body and transferring the gamete or the embryo into the reproductive system of a woman;

**Justification: To cover all techniques used in assisted reproductive technology.**

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

“child” means an individual who has not attained the age of eighteen years;

**Justification: For alignment with the Constitution and the Children Act, (Cap. 141).**

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

“intended parent” means a woman or couple who enters into a surrogacy arrangement seeking assistance in procreation through the help of a surrogate mother or donor;

**Justification: The term “intended parent” is best as the Bill intends to discourage the commercialization of surrogacy and assisted reproductive technology services.**

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

“couple” means a male and female who are married or are cohabiting under the laws of Kenya;

**Justification: To give the term a broad meaning as contemplated under the relevant Kenyan laws.**

- (e) by deleting the definition of the term “cryo-preservation” and substituting therefor the following new definition—

“cryo-preservation” means the assisted reproductive technology of freezing and storing of gametes, zygotes, embryos, ovarian and testicular tissues;

**Justification: The new definition is more comprehensive as it includes all types of organs and cells that may be frozen and stored within the ambit of assisted reproductive technology.**

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

Cap. 253. “Council” means the Kenya Medical Practitioners and Dentists Council established under section 3 of the Medical Practitioners and Dentists Act;

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

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

“donation” means a process in assisted reproductive technology of voluntarily giving gametes for purposes of procreation;

**Justification: To limit donation to that of gametes only in line with the proposed amendments.**

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

“gamete donor” means a person who voluntarily gives his or her gametes for the purpose of fertilization in an assisted reproductive technology process;

**Justification: To limit donation to that of gametes only in line with the proposed amendments.**

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

“embryo” means a cell or group of cells containing a diploid complement of chromosomes or group of such cells, not a gamete or gametes, that has the potential to develop into a live born human being if transferred into the body of a person under conditions in which gestation may be reasonably expected to occur;

**Justification: To align with internationally accepted definitions for instance by the World Health Organization (WHO) in the International Committee for Monitoring Assisted Reproductive Technology (ICMART) and WHO revised glossary on Assisted Reproductive Technology terminology, 2009.**

- (j) in the definition of the term “embryologist” by inserting the words “the development, storage and transfer of embryos, and” immediately after the words “deals with”;

**Justification: For a more comprehensive definition of the term.**

- (k) by deleting the definition of the term “embryology”;

**Justification: The term is used in its ordinary meaning and hence there is no need for it to be defined.**

- (l) in the definition of the term “endoscopic surgery” by deleting the words, “ and passing a telescope with a video camera through the incision into the body cavity”;

**Justification: For a more comprehensive definition of the term since technology keeps evolving.**

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

“father” means an intended male parent;

**Justification: To ensure that a man making use of assisted reproductive technology has the intention to parent.**

- (n) in the definition of the term “in-vitro fertilization” by deleting the words “an egg is fertilized by a sperm in a test-tube or elsewhere outside the body” and substituting therefor the words “fertilization takes place outside the body”;

**Justification: In-vitro fertilization is not only done in test-tubes and is done outside the body.**

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

“mother” means an intended female parent;

**Justification: To ensure that the woman seeking to use assisted reproductive technology has the intention to parent.**

- (p) in the definition of the term “oocyte” by deleting the word “oocyte” and substituting therefor the word “egg”;

**Justification: To avoid using the same word in the definition of the term “oocyte”.**

- (q) by deleting the definition of the term “parties to a marriage”;

**Justification: Marriage is not the only condition to access to assisted reproductive technology services.**

- (r) in the definition of the term “pre-implantation genetic diagnosis” by deleting the words “and eliminating the same”;

**Justification: To deal with the vagueness on what is being eliminated which may cause eugenic tendencies.**

- (p) in the definition of the term “pre-implantation screening” by deleting the words “to determine the number of chromosomes” and substituting therefor the words “to determine the viability or euploidy of an embryo before transferring to the woman’s womb”;

**Justification: Pre-implantation screening is not just for the number of chromosomes but also for the viability of the embryo so as to improve the success rates of in vitro fertilization.**

- (q) by deleting the definition of the term “primitive streak”;

**Justification: The definition is unnecessary as by the time the primitive streak appears the embryo has implanted and the pregnancy test is positive.**

- (r) in the definition of the term “procreation” by deleting the words “whether through an assisted reproduction technology process or through natural means” and substituting therefor the words “including through assisted reproductive technology”;

**Justification: The term is used in its ordinary meaning and the amendment just seeks to specify that the same may occur through assisted reproductive technology.**

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

“sperm” means the mature male human gamete;

**Justification: The new definition is more comprehensive and specific that the male gamete must be from a human being.**

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

“surrogacy” means a practice whereby a woman bears and gives birth to a child for an intended parent or couple;

**Justification: To specify the purpose and parties involved in surrogacy to prevent abuse of surrogacy processes.**

- (u) by deleting the definition of the term “surrogate mother” and substituting therefor the following new definition—

“surrogate mother” means a woman who has agreed to carry a pregnancy to term for another woman or couple”; and

**Justification: To specify the purpose of involving a surrogate mother so as to prevent abuse of surrogacy processes.**

- (v) by inserting the following new definitions in the proper alphabetical sequence—

“abandoned child” means a child born out of a surrogacy procedure who has been deserted by his or her intending parents and the surrogate and declared as such by the court after due process;

“abandonment” means failure to continue to pay for cryopreservation storage of gametes or embryos;

“altruistic surrogacy” means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses or the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative;

“clinic” means a health facility licensed under this Act for the purpose of conducting assisted reproduction procedures;

“commercial surrogacy” means the commercialization of surrogacy services or procedures or its component services or component procedures including the selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or hiring, selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or monetary incentive in cash or in kind, to the surrogate mother or her dependents or her representative, except the medical expenses or the insurance coverage for the surrogate mother;

“cryo bank” means a facility for the collection and storage of gametes and embryos and the supply of gametes to the assisted reproductive technology clinics or their patients;

“foetus” means the developing human offspring after the embryonic stage prior to birth;

“gestational surrogacy” means the process where a woman who did not provide or donate an egg carries a pregnancy for the intended parents or couple;

“intersex” means a person with a congenital condition in which the biological sex cannot be categorized as male or female due to inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns;

“ovum” means a single cell released from either of the female reproductive organs that is capable of developing into a new organism when fertilized with a sperm cell;

“pre-implantation genetic testing” means all techniques used to identify genetic defects and aneuploidy in embryos created through in-vitro fertilization before transfer;

“supervisor” means the person responsible for activities authorized under the licence issued under this Act;

“surrogacy agreement” means an agreement between a surrogate and an intended parent or couple that the surrogate is to undergo an assisted reproduction procedure for purposes of having a child born as a result of such a procedure for the intended parent or couple; and

“zygote” means a diploid cell resulting from the fusion of two haploid gametes.

**Justification: The proposed definitions are used in the Bill as proposed for amendment by the Committee.**

### **CLAUSE 3**

**THAT**, the Bill be amended by deleting Clause 3 and substituting therefor the following new clause 3—

Application. 3. This Act applies to Kenyan citizens only.

**Justification: To limit assisted reproduction services to Kenyan citizens only which protects the surrogate mothers and the children born out of assisted reproductive technology.**

### **CLAUSE 4**

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

- (a) deleting the words “object and purpose” appearing in the marginal note and substituting therefor the word “objects”; and
- (b) inserting the following new paragraphs immediately after paragraph (c) —
  - “(d) ensure the best interest of children;
  - (e) facilitate the registration of children born out of gestational surrogacy arrangements;
  - (f) promote research into the incidence, causes and prevention of infertility;
  - (g) provide a framework for surrogacy arrangements;
  - (h) prohibit commercial surrogacy; and
  - (i) establish an assisted reproductive technology committee”.

**Justification: To include the important aspects in the use of assisted reproductive technology. The words “objects” and “purpose” are synonymous.**

**CLAUSE 5**

**THAT**, the Bill be amended by deleting Clause 5 and substituting therefor the following new clause 5—

Assisted Reproductive Technology Committee.	5. (1) The Council shall establish a Committee to be known as the Assisted Reproductive Technology Committee. (2) The Committee shall conduct its business and affairs in accordance with the provisions of the Schedule.
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**Justification: To make provision for the Kenya Medical Practitioners and Dentists Council (KMPDC) to establish a Committee known as the Assisted Reproductive Technology Committee to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 6**

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

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and
- (b) in paragraph (i), by deleting the words “in consultation with the Medical Practitioners and Dentist Council,”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 7**

**THAT**, Clause 7 of the Bill be amended by deleting the words “National Government” and substituting therefor the words “Cabinet Secretary”.

**Justification: To place responsibility on a specific office for accountability in the performance of the obligations placed on the National Government.**

**CLAUSE 8**

**THAT**, Clause 8 of the Bill be amended by—

- (a) deleting paragraph (a);

**Justification: This issue of collaboration between the national government and the county governments in the access and delivery of assisted reproductive services is already provided for under clause 7(d) of the Bill.**

- (b) deleting the words “including finances required to hire adequate personnel” appearing in paragraph (b); and

**Justification: The words proposed for deletion are superfluous as allocation of funds is sufficiently addressed in paragraph (b).**

- (c) deleting the words “sufficient” and “adequately” appearing in paragraph (c).

**Justification: To remove ambiguity on the level and scope of the various assisted reproductive technology services to be offered by the County Governments.**

**CLAUSE 9**

**THAT**, the Bill be amended by deleting Clause 9.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 10**

**THAT**, the Bill be amended by deleting Clause 10.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 12**

**THAT**, Clause 12 of the Bill be amended in sub-clause (1) by deleting the words “written consent, in accordance with the prescribed Regulations, to its use for that purpose” and substituting therefor the words “written informed consent”.

**Justification: To ensure that proper consent is obtained for the use of any human reproductive material.**

**CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended in—

- (a) the marginal note by inserting the word “informed” immediately before the word “consent”; and
- (b) sub-clause (1) by deleting the words “written consent, in a manner prescribed by Regulations, to its removal for that purpose” and substituting therefor the words “written informed consent”.

**Justification: To ensure that proper consent is obtained for the use of any human reproductive material.**

**CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended by deleting the words “undertake assisted reproductive technology, where it is certified by a medical doctor that the person requires assisted reproductive technology on medical or health grounds” and substituting therefor the words “receive assisted reproductive technology services, where it is certified by a doctor who is an assisted reproductive technology expert, that the person requires assisted reproductive technology”.

**Justification: To give all persons’ access to assisted reproductive technology services subject to certification by a doctor with specialized knowledge in assisted reproductive technology.**

**CLAUSE 15**

**THAT**, Clause 15 of the Bill be amended in sub-clause (1) by deleting the word “purely” appearing in paragraph (c).

**Justification: The word is superfluous in the circumstances.**

**CLAUSE 16**

**THAT**, Clause 16 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b)—  
“(c) a gamete or embryo other than that consented to by the woman;”

**Justification: To prevent admixing without the consent of the woman into whom a gamete or embryo is being placed into.**

**CLAUSE 17**

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

- (a) deleting the word “minor” appearing in the marginal note and substituting therefor the words “a child”.

**Justification: For consistency within the Bill as the term child is used throughout the Bill.**

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

“(1) A person shall not obtain a sperm or ovum from a child or use any sperm or ovum obtained from a child except for medical reasons and future human procreation by the child and with informed consent of the child, parent or legal guardian of the child.”

**Justification: To prevent abuse of the assisted reproductive technology process.**

**CLAUSE 18**

**THAT**, Clause 18 of the Bill be amended by—

- (a) deleting the marginal note and substituting the following new marginal note—  
“Restrictions on the use of embryos”; and
- (b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—  
“(1) A person shall not—
  - (a) keep or use an embryo other than a human embryo;
  - (b) place a human embryo in any animal;
  - (c) transfer an embryo in a woman other than a human embryo;
  - (d) keep or use a human embryo in circumstances prohibited under this Act or as prescribed by regulations;
  - (e) replace any part of a human embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such replacement is for purposes of solving a medical problem; or
  - (f) Undertake any form of human cloning.”

**Justification: To distinguish between human and animal embryos and to place restrictions on persons who misuse embryos and not on the regulator.**

**CLAUSE 19**

**THAT**, Clause 19 of the Bill be amended in sub-clause (1) by—

- (a) inserting the word “informed” immediately after the words “without his” appearing in paragraph (b);

**Justification: To ensure that proper consent is obtained for the use of any human reproductive material.**

- (b) inserting the word “informed” immediately after the words “without her” appearing in paragraph (c);

**Justification: To ensure that proper consent is obtained for the use of any human reproductive material.**

- (c) deleting the words “place sperm and eggs or embryo in a woman” appearing in paragraph (e) and substituting therefor the words “transfer sperms or embryo into a womb”; and

**Justification: Eggs and sperm cannot be transferred into the womb at the same time.**

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

“(f) in the course of providing assisted reproductive treatment services for any woman, use the sperm of any man without the woman’s informed consent”.

**Justification: To protect women from insemination with a sperm that they have not consented to.**

**NEW CLAUSES 19A, 19B, AND 19C**

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

Number of times one can donate gametes or embryos or be a surrogate. **19A.** (1) A person shall not donate their gametes or embryos more than ten times.  
(2) A person shall not perform a treatment procedure using gametes or an embryo produced by a donor if such procedure may result in more than ten children who are genetic siblings.  
(3) A surrogate mother shall not enter into a surrogacy agreement more than three times in her lifetime and shall be required to wait for two years between each birth to be eligible for another surrogacy agreement.

**Justification: To limit the number of donations of gametes and surrogacies for the health and well-being of surrogate mothers.**

Donation of gametes or embryos. **19B.** (1) A cryo bank shall obtain—  
(a) male gametes from males between twenty-one years of age and thirty-five years of age; or  
(b) oocytes from females between twenty-three years of age and thirty-five years of age.  
(2) An assisted reproductive clinic under this Act shall examine donors for diseases as may be prescribed by the Council.

**Justification: To provide an age limit for gamete’ donors to ensure that quality gametes are obtained. For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

Disposal of gametes. **19C.** (1) The Council may, under such conditions as may be prescribed, permit—  
(a) disposal of gametes after ten years of preservation;  
(b) donation of gametes to other couples pursuing assistive reproductive technology; or

(c) the conduct of research on stem cells and zygotes that are not more than fourteen days old on a written application and where—

- (i) the applicant undertakes to document the research for record purposes; and
- (ii) prior consent is obtained from the donor of the stem cells or zygotes.

(2) A person who contravenes this provision is guilty of an offence and is liable on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

**Justification: To provide for the disposal of gametes for instance through donations to couples who need assistance in the event that gametes have not been utilized in the purpose originally intended. For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

#### **CLAUSE 20**

**THAT**, Clause 20 of the Bill be amended by—

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

“Posthumous reproduction”

(b) renumbering the existing clause as sub-clause (1);

(c) deleting paragraph (b) of the renumbered sub-clause (1) and substituting therefor the following new paragraph (b) —

“(b) there was informed consent in writing by the man.”

**Justification: To ensure that proper consent for parentage is obtained prior to the death of the man whose gametes are being used for assisted reproductive technology services.**

(d) inserting the following new sub-clause immediately after the renumbered sub-clause (1) —

“(2) Where the ovum of a woman or an embryo, the creation of which resulted from the ovum of that woman, was used after the death of that woman, that woman shall not be treated as the mother of the child born out of that ovum or embryo unless the—

- (a) father was married to the woman at the time of the death of the woman; and
- (b) woman had given informed consent in writing”.

**Justification: To provide for post-humous reproduction by a woman and to ensure that proper consent for parentage is obtained prior to the death of the woman.**

**CLAUSE 21**

**THAT**, Clause 21 of the Bill be amended by—

- (a) by deleting the word “Directorate” appearing in sub-clause (2) and substituting therefor the word “Council”; and

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

- (b) in sub-clause (3) by inserting the following new sub paragraph immediately after sub paragraph (iv) —

“(v) the right of a child born through assisted reproductive technology to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not”.

**Justification: To provide that children born out of assisted reproductive technology also have a right to parental care and protection as guaranteed under the Constitution.**

**CLAUSE 22**

**THAT**, the Bill be amended by deleting Clause 22.

**Justification: Clause 14 adequately addresses the provision of assisted reproductive technology services to all persons requiring such services on medical and health reasons.**

**CLAUSE 23**

**THAT**, Clause 23 of the Bill be amended—

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) The consent under subsection (1) shall make express provisions on—

- (a) the ownership of the gametes;
- (b) the number of gametes to be implanted; and
- (c) what should be done with the gametes in case of—
  - (i) the death of any of the parties seeking assisted reproductive technology services;
  - (ii) incapacity of any of the parties seeking assisted reproductive technology services;
  - (iii) abandonment of the gametes;
  - (iv) dispute;

- (v) divorce; or
- (vi) separation.”

**Justification: To make provision for obtaining prior consent in the event of unforeseeable circumstances such as death or divorce.**

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

“(3) The assisted reproductive technology clinics and assisted reproductive technology banks shall not cryo preserve any human gametes without specific instructions and consent in writing from all the parties seeking assisted reproductive technology in respect of what should be done with the gametes in case of the circumstances set out in subsection 2(c); and

**Justification: To make provision for obtaining of prior consent in the event of unforeseeable circumstances such as death or divorce.**

- (c) in sub-clause (4) by deleting the words “implanting the embryos or” and substituting therefor the words “transfer of”.

**Justification: Gametes are transferred into a womb and not implanted as currently provided.**

#### **NEW CLAUSE 24A**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 24—

Pre-implantation diagnosis or testing.      **24A.** A donor shall undergo a pre-implantation diagnosis or testing for purposes of screening the human embryo or gamete for known, pre-existing, heritable or genetic diseases.

**Justification: To ensure that no diseases are passed to the resulting child**

#### **CLAUSE 25**

**THAT**, the Bill be amended by deleting Clause 25.

**Justification: Marriage is not a requirement to accessing assisted reproductive technology services.**

#### **CLAUSE 26**

**THAT**, Clause 26 of the Bill be amended by—

- (a) deleting the words “sexual intercourse” appearing in sub-clause (1) and substituting therefor the words “natural conception”;

**Justification: Natural conception is ideal in comparison to assisted reproductive technology.**

- (b) deleting sub-clause (2);

**Justification:** This is a repetition and is already provided for in other clauses within the Bill.

- (c) deleting sub-clause (4); and

**Justification:** To align with the proposed amendment that the Bill shall only apply to Kenyan citizens and hence the question of citizenship of child born as a result of assisted reproductive technology does not arise.

- (d) deleting sub-clause (5).

**Justification:** To align with the proposed amendment that the Bill shall only apply to Kenyan citizens and hence the question of citizenship of child born as a result of assisted reproductive technology does not arise.

#### **CLAUSE 27**

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

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

“(1) A woman who—

- (a) has attained the age of twenty-five years;
- (b) is below the age of forty-five years;
- (c) has given birth at least to one child;
- (d) understands the rights and obligations accruing under a surrogacy agreement; and
- (e) has undergone comprehensive mental and physical health assessments may consent to a process of assisted reproduction for purposes of surrogate motherhood.”

**Justification:** To limit the age of the surrogate mother to above twenty-five and below forty-five years old which will ensure the safety of the foetus and the surrogate mother, and to provide for comprehensive health assessment which is crucial for the surrogate mother’s well-being

- (b) in sub-clause (2) by—

- (i) deleting the word “child” appearing immediately after the words “carry the” and substituting therefor the word “foetus”; and
- (ii) deleting the words “parties to a marriage or couple” and substituting therefor the words “intended parents”.

**Justification:** The result of an assisted reproductive technology process is a foetus and not a child, the latter is one who has been born. Reference to parties to a marriage or couple brings about discrimination as the appropriate terminology in legal parlance is “intended parent or intended parents”.

- (c) inserting the following new sub-clause (3) immediately after sub-clause (2)—

“(3) Where the surrogate mother or intended parents has no genetic connection with the child, the surrogate mother shall subject to a court order relinquish all parental rights and responsibilities at birth over the child to the intended parents”.

**Justification: Where there is no genetic connection with a child born through assisted reproductive technology, the requirement for the court process gives enhanced protection for the child.**

**NEW CLAUSES 27A AND 27B**

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 27—

Intended parents.                    **27A.** An intended parent may use assisted reproduction where the person—

- (a) is a Kenyan; and
- (b) has attained the age of twenty-five years; and
- (c) is below the age of fifty-five years.”

**Justification: To limit access to assisted reproductive technology provided in the country to Kenyan citizens and set the age of the intended parent using assisted reproductive technology to be above the age of twenty-five years but not more than fifty-five years. This will extend the age limit to follow the normal age of natural conception for the best interests of the child born out of assisted reproductive technology.**

Leave related to surrogacy.            **27B.** (1) A surrogate mother under this Act shall be entitled to three months lochia leave.

(2) An intended mother under this Act shall be entitled to three months maternity leave.

(3) An intended father under this Act shall be entitled to two weeks paternity leave.

**Justification: To provide for leave for intended parents’ after the birth of children born out of assisted reproduction.**

**CLAUSE 28**

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

- (a) in sub-clause (1) by deleting the words “Parties to a marriage or commissioning parents” and substituting therefor the words “Intended parents”;

**Justification: Reference to parties to a marriage brings about discrimination; the appropriate terminology in legal parlance is “intended parent or intended parents,” which prevents the commercialization of assisted reproductive technology and surrogacy.**

- (b) in sub-clause (3) by inserting the following new paragraphs immediately after paragraph (g)—

“(h) where the surrogate appoints a next of kin and provides the identity information of the appointed guardian;

(i) where the intending parents appoint a guardian and provide the identity information of the appointed guardian;”

**Justification: To require the provision of an alternative contact person in the event the surrogate or intending parents die or are unable to take custody of the child born out of assisted reproductive technology.**

- (c) in sub-clause (4), by deleting the word “form” and substituting therefor the word “surrogacy agreement”;

**Justification: To correct the wrong cross-reference as the names of the child born through assisted reproductive technology will be put in the surrogacy agreement.**

- (d) by deleting sub-clause (5) and substituting therefor the following new sub-clause (5)—

“(5) The Council shall carry out pre-approval checks and shall satisfy itself that the—

(a) surrogate and the intended parent or parents have undergone appropriate medical assessments, including an assessment on the health of the surrogate, pre-implantation genetic testing or diagnosis;

(b) surrogate and the intended parent or parents have received appropriate counselling and legal advice about the implications of signing the surrogacy agreement and that a report by a counsellor reveals the positive welfare of a child who may be born as a result of an assisted reproduction procedure and the positive welfare of other children who may be affected by any such birth; and

(c) intended parents have taken out an appropriate insurance policy to cover the surrogate becoming ill, with protection under the policy starting no later than the day on which the first assisted reproduction procedure is to be carried out under the surrogacy agreement and ending five years after the surrogate has given birth.”

**Justification: Where there is no genetic connection with a child born through assisted reproductive technology, the requirement for the court process gives enhanced protection for the child. To provide for pre-approval checks that must be undertaken before a person is allowed to use assisted reproductive technology services.**

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

“(6) A person may apply to the High Court for any necessary orders on matters relating to—

- (a) the validity of a surrogacy agreement; or
- (b) a dispute relating to parentage of a child born as a result of an assisted reproduction procedure.”

**Justification: To provide for the instances under which a person may go to High Court in relation to matters relating to the use of assisted reproductive technology.**

(f) in sub-clause (7) by—

- (i) deleting the word “parties to a marriage” and substituting therefor the words “intended parents”; and

**Justification: Reference to parties to a marriage brings about discrimination; the appropriate terminology in legal parlance is “intended parent or intended parents” which prevents the commercialization of assisted reproductive technology and surrogacy.**

- (ii) deleting the words “in the process” and substituting therefor the words, “as a consequence”; and

**Justification: To specify that the person entering a surrogacy agreement shall only receive benefits as a consequence of surrogacy and not in the process of surrogacy.**

(g) by inserting the following new sub-clauses immediately after sub-clause (7)—

“(8) A surrogacy agreement may indicate the terms of the agreement including terms prohibiting the surrogate from—

- (a) partaking alcohol;
- (b) smoking;
- (c) using unprescribed drugs; or
- (d) engaging in dangerous activity that may affect the health or life of a child conceived through assisted reproduction technology.

(9) The terms of the agreement under subsection (8) shall not be overly tasking or prejudicial to the surrogate.

(10) The Cabinet Secretary shall make regulations for the better carrying out of the provisions of subsection (8).”

**Justification: To protect the foetus as the intended parents do not have control over a surrogate's actions.**

**NEW CLAUSES 28A AND 28B**

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 28—

Surrogacy  
agreements  
third parties.

by **28A.** (1) No person shall on a commercial basis engage in acts in Kenya or knowingly cause another person to engage in acts on a commercial basis including—

- (a) initiating or taking part in any negotiations with the intention of the making of a surrogacy arrangement;
- (b) offering or agreeing to negotiate the making of a surrogacy arrangement; or
- (c) compiling any information with the intent of using such information in making or negotiating the making of surrogacy arrangements.

(2) For the purposes of this section, a person engages in an act on commercial basis where—

- (a) any payment is at any time received by himself or another in respect of that act; or
- (b) the person engages in that act with the purpose of any payment being received by himself or another in respect of making, negotiating or facilitating the making of any surrogacy arrangement.

**Justification: To prohibit commercialization of surrogacy agreements by third parties for financial gain.**

Commercialization  
of surrogacy.

**28B.** (1) No person, organization, surrogacy clinic, laboratory or clinical establishment of any kind shall—

- (a) undertake commercial surrogacy, provide commercial surrogacy or its related component procedures or services in any form or run a racket or an organized group to empanel or select surrogate mothers or use individual brokers or intermediaries to arrange for surrogate mothers and for surrogacy procedures at such clinics, laboratories or at any other place;
- (b) issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated, any advertisement in any manner regarding commercial surrogacy by any means, scientific or otherwise;

- (c) abandon or disown or exploit or cause to be abandoned, disowned or exploited in any form, the child or children born through surrogacy;
- (d) exploit or cause to be exploited the surrogate mother or the child born through surrogacy in any manner whatsoever;
- (e) sell human embryo or gametes for the purpose of surrogacy and run an agency, a racket or an organization for selling, purchasing or trading in human embryos or gametes for the purpose of surrogacy;
- (f) import or assist in the importation in any manner of human embryos or human gametes for surrogacy or for surrogacy procedures; and
- (g) conduct education in commercial surrogacy.

(2) A person who contravenes subsection (1) commits an offence and shall on conviction be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

(3) For the purposes of this section, the term “advertisement” includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media, in electronic or print form.

(4) A registered medical practitioner, fertility expert, embryologist or a person who owns a fertility clinic or is employed by a fertility clinic, centre or laboratory and renders his or her professional or technical services to or at such a clinic or centre or laboratory including on honorary basis or otherwise, and who contravenes any of the provisions of this section, commits an offence and shall on conviction, be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

**Justification: To make provision for the prohibition of commercialization of surrogacy by medical practitioners and other relevant actors. To prohibit the use, abuse and mistreatment of surrogates and the gestational surrogacy process generally and to also adhere to international standards as medical advertisement is frowned upon.**

**CLAUSE 29**

**THAT**, Clause 29 of the Bill be amended in sub-clause (1) by—

- (i) deleting the words “this Act or any other written law” appearing in paragraph (a) and substituting therefor the words “the Constitution”; and

**Justification: To cross reference the Constitution which is the supreme law on matters of relating to right to life.**

- (ii) deleting the word “implantation” appearing in paragraph (b) and substituting therefor the word “transfer”; and

**Justification: Implantation occurs after transfer of the fertilized embryo.**

- (iii) deleting the word “commissioning” appearing in paragraph (c) and substituting therefor the word “intended”.

**Justification: To align with the adoption of the word “intended parent” which is ideal since the Bill does not encourage commercialization of surrogacy.**

**CLAUSE 30**

**THAT**, Clause 30 of the Bill be amended—

- (a) by deleting the words “The Commissioning parent or parents, under the surrogacy agreement shall” appearing in subclause (1) and substituting therefor the words “ The intended parent or parents under the surrogacy agreement shall, where the child is genetically connected to them or subject to a court order”;

**Justification: To align with the adoption of the word “intended parent” which is ideal since the Bill does not encourage commercialization of surrogacy. Where there is no genetic connection with a child born through assisted reproductive technology, the requirement for the court process gives enhanced protection for the child.**

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

“(2) In the event of multiple pregnancies arising out of a surrogacy agreement or where a child born out of a surrogacy agreement has congenital abnormalities, all the children born out of the pregnancy shall be the children of the intended parent or intended parents and the rights and obligations for all parties shall vest as if the pregnancy had borne only one child or normal child.”

**Justification: To ensure that the intended parents do not abandon a child with congenital abnormalities who is legally their child.**

- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) Where a child is born out of a surrogacy arrangement and—

- (a) where the creation of an embryo was brought about with a sperm and an egg of a couple, or where the couple or intended parent is genetically connected to the child, the

couple or intended parent shall be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate; or  
(b) where the creation of an embryo was brought about with the gametes other than the gamete of a couple or the intended parent or where the couple or intended parent is not genetically connected to the child, the couple or intended parent shall only be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate following a court order.”

**Justification: Where there is no genetic connection with a child born through assisted reproductive technology, the requirement for the court process gives enhanced protection for the child.**

- (d) in sub-clause (4) by deleting the words “Notwithstanding the provisions of section 28(7), the surrogate mother may claim from the commissioning parent or commissioning parents the following” and substituting therefor the words “The surrogate mother may claim from the intended parent or intended parents the following”; and

**Justification: To align with the adoption of the word “intended parent” which is ideal since the Bill does not encourage commercialization of surrogacy.**

- (e) in sub-clause (5) by—  
(i) deleting the word “law” appearing immediately after the words “provisions of the law” in paragraph (a) and substituting therefor the word “Constitution”; and

**Justification: To cross reference the Constitution which is the supreme law on matters of relating to right to life.**

- (ii) deleting the words “commissioning parent or commissioning parents” appearing in paragraph (b) and substituting therefor the words “intended parent or intended parents”; and

**Justification: To align with the adoption of the word “intended parent” which is ideal since the Bill does not encourage commercialization of surrogacy.**

- (iii) inserting the following new paragraph immediately after paragraph (d)—  
“(e) be entitled to psychological support during and after the pregnancy, provided by the intended parent or intended parents”.

**Justification: To cater for the health and wellbeing of a surrogate mother.**

- (f) by inserting the following new sub-clauses immediately after sub-clause (7)—

“(8) The intending parent or couple shall not abandon a child born out of an assisted reproductive technology or surrogacy procedure.

(9) A person who contravenes subsection (8) commits an offence and shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both.”

**Justification: To prevent abandonment of a child born through assisted reproductive technology which guarantees the best interests of the child as guaranteed in the Constitution.**

**CLAUSE 32**

**THAT**, Clause 32 of the Bill be amended by—

- (a) deleting sub-clause (1); and
- (b) inserting the words “except in the case of transfer of own gametes and embryos for personal use” immediately after the word “Kenya” in sub-clause (2).

**Justification: To prohibit the sale or transfer of gametes and embryos outside Kenya except for personal use.**

**NEW CLAUSE 32A**

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 32—

- Prohibition on certain publications.      **32A.** (1) A person shall not publish, or cause to be published, an advertisement or notice to the effect that a person—
- (a) is or may be willing to enter into a surrogacy arrangement;
  - (b) is seeking another person who is or may be willing to enter into a surrogacy arrangement, to act as a surrogate mother or to arrange a surrogacy arrangement;
  - (c) is or may be willing to accept any benefit under a surrogacy arrangement for himself or herself;
  - (d) is or may be willing to accept any benefit under a surrogacy arrangement for another person that is intended or likely to counsel or procure a person to agree to act as a surrogate.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to pay a fine not exceeding five hundred thousand shillings or to imprisonment to a term not exceeding one year, or to both, and to a fine not exceeding ten million shillings in the case of a body corporate.

**Justification: To prevent and criminalize commercialization of surrogacy services.**

**CLAUSE 33**

**THAT**, Clause 33 of the Bill be amended —

- (a) in the opening sentence, by deleting the word “Directorate” and substituting therefor the word “Council”;

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

- (b) inserting the following new paragraph immediately after paragraph (e)—

“(f) the destruction or disposal by a registered assisted reproductive technology provider of any gametes or an embryo formed outside the body of a woman.”;

**Justification: To ensure that the Assisted Reproductive Technology Committee is made aware of any disposal of gametes.**

- (c) renumbering the clause as sub-clause (1); and

- (d) inserting the following new sub-clauses immediately after the re-numbered sub-clause (1)—

“(2) The Council shall ensure that all information contained in the register is protected and maintained in a confidential manner in accordance with the relevant data protection and privacy laws.

(3) The Council shall maintain all records, charts, forms, reports, consent letters and agreements.

(4) All the documents under this Act shall be preserved for a period of twenty-five years or such period as may be prescribed: provided that where any criminal or other proceedings are instituted against any surrogacy clinic, the records and all other documents of such clinic shall be preserved until the final disposal of such proceedings.

(5) All records under subsection (3) and (4) shall, at all reasonable times, be made available for inspection to the appropriate authority or to any other person authorized by the appropriate authority.”

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country. To ensure compliance with the right to privacy as guaranteed under Article 31 of the Constitution and to ensure preservation of medical records relating to surrogacy in matters of the health of the surrogate, child born out of surrogacy and the commissioning parents.**

**CLAUSE 34**

**THAT**, Clause 34 of the Bill be amended—

(a) in sub-clause (1) by —

- (i) deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

- (ii) deleting the words “twenty-one” appearing in sub-clause (1) and substituting therefor the word “eighteen”;

**Justification: For conformity with age of consent to marry so as to prevent incest.**

(b) in sub-clause (2) by deleting the word “Directorate” and substituting therefor the word “Council”; and

(c) in sub-clause (3) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 35**

**THAT**, Clause 35 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 36**

**THAT**, Clause 36 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 37**

**THAT**, Clause 37 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**Justification:** For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.

**CLAUSE 38**

**THAT**, Clause 38 of the Bill be amended by deleting the words “Directorate in consultation with the Medical Practitioners and Dentists Council” and substituting therefor the word “Council”.

**Justification:** For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.

**CLAUSE 40**

**THAT**, Clause 40 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**Justification:** For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.

**CLAUSE 41**

**THAT**, Clause 41 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**Justification:** For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.

**CLAUSE 42**

**THAT**, Clause 42 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and

**Justification:** For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.

- (b) in sub-clause (2) by—

- (i) inserting the word “authorized” immediately before the word “member” appearing in paragraph (b); and

**Justification:** To remove ambiguity on the persons authorized to enter and inspect premises offering assisted reproductive services.

- (ii) deleting the words “unless authorized by the Directorate” appearing in paragraph (d).

**Justification: To remove the requirement of authorization of compensation to be paid for the supply of gametes.**

**CLAUSE 43**

**THAT**, Clause 43 of the Bill be amended —

- (a) in the marginal note by inserting the words “and embryos” immediately before the word “gametes”;

**Justification: The clause relates to both the storage of embryos and gametes.**

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

“(1) Every licence authorizing the storage of gametes shall have the condition that—

- (a) the gametes of a person shall be placed in storage only if received from that person or acquired from a person to whom a licence applies;
- (b) gametes which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (c) no gametes shall be kept in storage for longer than the statutory storage period;
- (d) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (e) there is provision for adequate safety and security for the stored gametes;
- (f) the storage tubes are labelled with a unique identifier;
- (g) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (h) there is maintenance of a movement register of storage and retrieval of stored gametes; and
- (i) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored gamete and the identity of the donor.”

**Justification: To separate the licence conditions for gametes from those of embryos as the latter requires more stringent conditions owing to the sanctity of the right to life under the Constitution.**

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

“(1A). Every licence authorizing the storage of embryos shall have the condition that-

- (a) the resultant embryo taken from a person shall be placed in storage only if received from that person or acquired from a person to whom a license applies;
- (b) an embryo the creation of which has been brought about by assisted reproductive technology than in pursuance of the license shall be placed in storage only if acquired from a person to whom the license applies;
- (c) embryos which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (d) an embryo which is created but is not transferred to the surrogate or intended mother for any reason shall be stored and shall be given priority in the succeeding application for assisted reproductive technology;
- (e) no embryos shall be kept in storage for longer than the statutory storage period;
- (f) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (g) there is provision for adequate safety and security for the stored embryos;
- (h) the storage tubes are labelled with a unique identifier;
- (i) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (j) there is maintenance of a movement register of storage and retrieval of stored embryos; and
- (k) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored embryo and the identity of the donor.”

**Justification: To separate the licence conditions for gametes from those of embryos as the latter requires more stringent conditions owing to the sanctity of the right to life under the Constitution.**

(d) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—

“(2) Where a donor or person wishing to store their gamete or embryo in a cryo bank through cryo-preservation, the cryo bank shall only store such gamete or embryo for as long as the owners of the gamete or embryo are alive or for a period not exceeding ten years, and at the end of this period the embryo or gamete shall be allowed to perish.”

**Justification: To clarify that embryos and gametes shall be stored until they perish conditions owing to the sanctity of the right to life under the Constitution.**

**CLAUSE 44**

**THAT**, Clause 44 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 45**

**THAT**, Clause 45 of the Bill be amended in sub-clause (2) by deleting the word “Directorate” appearing in paragraph (b) and substituting therefor the word “Council”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 46**

**THAT**, Clause 46 of the Bill be amended—

- (a) by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

- (b) in sub-clause (1) by—

- (i) deleting paragraph (d);

**Justification: There is no certainty on the circumstances that would warrant the revocation of a licence.**

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

“(e) that the person responsible has committed a professional malpractice or has been removed from office for contravening the provisions of the Constitution or any other written law”; and

- (iii) inserting the words “or any other law and sentenced to imprisonment for a term exceeding six months” immediately after the word “Act” appearing in paragraph (f).

**Justification: To empower the Council to revoke licences for persons who have committed serious offences and are of questionable character.**

**CLAUSE 47**

**THAT**, Clause 47 of the Bill be amended by deleting the word “Directorate” appearing in sub-clause (1) and substituting therefor the word “Council”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 49**

**THAT**, Clause 49 of the Bill be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.

**Justification: For alignment with the proposed amendment that the Assisted Reproductive Technology Committee established by the KMPDC to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**

**CLAUSE 50**

**THAT**, Clause 50 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words “knowingly or recklessly” appearing in sub-clause (1); and
- (b) inserting the following proviso immediately after paragraph (c)—  
“and is liable on conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both”.

**Justification: To provide a penalty for the offences committed under clause 50.**

**NEW CLAUSE 51A**

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

51—

- Transitional provisions.
- 51A.** (1) Every clinic or cryo bank which conducts assisted reproductive technology, partly or exclusively shall, within a period of sixty days from the date of establishment of the Committee, apply for licences provided that such clinics and cryo banks shall cease to conduct any assisted reproduction procedures on the expiry of six months from the date of commencement of this Act, unless such clinics and cryo banks have applied for registration.
- (2) On receipt of the application under subsection (1), the Council shall, subject to the provisions of this Act and within a period of thirty days—
- (a) issue a certificate of registration and a registration number to the applicant; or

(b) reject the application in writing with reasons for the rejection.

**Justification: To provide for savings and transitional provisions on licensing of existing clinics and cryo banks.**

**CLAUSE 52**

**THAT**, Clause 52 of the Bill be amended —

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

“(2) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by Parliament.”

**Justification: The Regulations under the Bill are too technical, substantive and of great significance and as such they require affirmative resolution, that is they should be approved in draft form by both Houses of Parliament before they are published by the Cabinet Secretary for health.**

- (c) in paragraph (c) of the renumbered sub-clause (1) by deleting the words “planted in” and substituting therefor the words “transferred into”;

**Justification: Fertilized embryos are transferred into a womb and not planted in the womb as currently provided in the Bill.**

- (d) in paragraph (g) of the renumbered sub-clause (1) by inserting the word “informed” immediately after the words “giving of”;

**Justification: To ensure that proper consent is provide for the use of human reproductive material in assisted reproductive processes.**

- (e) in paragraph (h) of the renumbered sub-clause (1) by deleting the word “children” and substituting therefor the word “embryos”; and

**Justification: Embryos are created from gametes.**

- (f) by deleting paragraph (p) of the renumbered sub-clause (1).

**Justification: The Bill already makes substantive provisions in relation to research relating to assisted reproductive technology services.**

**SCHEDULE**

THAT, the Bill be amended by inserting the following new Schedule —

(s. 5(2))

#### SCHEDULE

#### CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

- Meetings.
1. (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
    - (2) The chairperson may call a special meeting of the Committee at any time the chairperson deems fit for expedient transaction of the business of the Committee.
    - (3) The notice for a meeting of the Committee shall be given in writing to each member of the Committee at least fourteen days before the day of the meeting.
    - (4) In the case of a special, or extra-ordinary meeting, a notice of less than fourteen days' notice shall be considered sufficient.
    - (5) Despite the provisions of subparagraph (2), the chairperson may, upon requisition in writing by at least two thirds of the members, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.
    - (6) The notice to be given under subparagraph (2) and (3) shall state the—
      - (a) venue and time of the meeting; and
      - (b) agenda with sufficient details of business to be discussed at the meeting.
    - (7) The chairperson shall preside at every meeting of the Committee at which the chairperson is present but in the chairperson's absence, the members present shall elect from among themselves a chairperson who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.
    - (8) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by the concurrence

of a majority of all the members present and voting at the meeting.

(9) The Committee may, with approval of the Cabinet Secretary, co-opt or invite any number of persons to act as advisors or consultants at any of its meetings or form such committees to perform such functions or duties of the Committee as the Committee shall determine.

(10) Subject to the provisions on quorum, no proceedings shall be invalid by reason only of a vacancy among the members of the Committee.

(11) Subject to the provisions of this Schedule, the Committee may determine its own procedure and the procedure for any committee of the Committee.

(12) The quorum for the meetings of the Committee shall be five members. Co-opted or invited persons shall not be counted in the quorum of the meetings of the Committee and shall not be eligible to vote.

Contracts  
and  
instruments.

2. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Institute by any person generally or specially authorized by the Institute for that purpose.

Disclosure  
of Interest.

3. (1) If a member of the Committee is present at a meeting of the Committee or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable before the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under paragraph (1) shall not, unless the Committee or committee otherwise directs, take part in any consideration or, discussion of, or vote on any question touching on the matter.

(3) A person who contravenes subparagraph (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months, or to both.

(4) No member of the Committee or officer, employee or agent of the Committee shall enter into a service contract or trade with the Committee.

(5) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

Minutes.

4. The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

**Justification: To make provision for conduct of affairs and business of the Assisted Reproductive Technology Committee to be established by the Kenya Medical Practitioners and Dentists Council (KMPDC) to be responsible for the functions relating to the provision of assisted reproductive technology services in the country.**



**MINUTES OF THE 67<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD AT BUNGE TOWER, 2<sup>ND</sup> FLOOR, ROOM 15, ON TUESDAY, 5<sup>TH</sup> AUGUST 2025 AT 10.00 AM.**

**PRESENT**

- |  |              |
|--|--------------|
| 1. The Hon. Dr. Nyikal James Wambura, MP | -Chairperson |
| 2. The Hon. Dr. Pukose Robert, MP        | -Member      |
| 3. The Hon. Lenguris Pauline, MP         | -Member      |
| 4. The Hon. Prof. Jaldesa Guyo Waqo, MP  | -Member      |
| 5. The Hon. Oron Joshua Odongo, MP       | -Member      |
| 6. The Hon. Owino Martin Peters, MP      | -Member      |
| 7. The Hon. Mary Maingi, MP              | -Member      |
| 8. The Hon. Cynthia Muge, MP             | -Member      |

**ABSENT WITH APOLOGY**

- |   |                    |
|---|--------------------|
| 1. The Hon. Ntwiga Patrick Munene, MP                 | - Vice Chairperson |
| 2. The Hon. Kipngor Reuben Kiborek, MP                | -Member            |
| 3. The Hon. Titus Khamala, MP                         | -Member            |
| 4. The Hon Kibagendi Antoney, MP                      | -Member            |
| 5. The Hon Wanyonyi Martin Pepela, MP                 | -Member            |
| 6. The Hon. Sunkuli Julius Lekakeny Ole, EGH, EBS, MP | -Member            |
| 7. The Hon. Mathenge Duncan Maina, MP                 | - Member           |

**INATTENDANCE**

- |                             |         |
|-----------------------------|---------|
| 1. Hon. Peter Kaluma, MP    | -Member |
| 2. Hon. Millie Odhiambo, MP | -Member |

**COMMITTEE SECRETARIAT**

- |                                  |                        |
|----------------------------------|------------------------|
| 1. Mr. Hassan A. Arale           | -Clerk Assistant I     |
| 2. Ms. Gladys Kiprotich          | -Clerk Assistant III   |
| 3. Ms. Faith Chepkemoi           | -Legal Counsel II      |
| 4. Mr. Hiram Kimuhu              | -Fiscal Analyst III    |
| 5. Ms. Abigael Muinde            | -Research Officer III  |
| 6. Ms. Sheila Chebotibin<br>Arms | -Principal Serjeant At |
| 7. Ms. Veronica Kithuka          | -Audio Intern          |

**AGENDA**

1. Prayers;
2. Preliminaries;
3. Adoption of the Agenda.
4. Confirmation of previous minutes.

5. Matters arising
6. Any Other Business; and
7. **Consideration of the amendments to the Assisted Reproductive Technology Bill, 2022 (National Assembly Bill No. 61 of 2022), sponsored by Hon. Millie Odhiambo, MP, following the harmonization process.**
8. Adjournment.

**MIN. NO. NA/DC-H/2025/444: PRELIMINARIES/INTRODUCTION**

The Chairperson called the meeting to order at thirty minutes past ten o'clock, followed by the Prayer and self-introductions.

**MIN. NO. NA/DC-H/2025/445: ADOPTION OF AGENDA**

The agenda of the meeting was adopted, having been proposed by Hon. Cynthia Muge, MP, and seconded by Hon. Lenguris Pauline, MP

**MIN. NO. NA/DC-H/2025/446: CONFIRMATION OF PREVIOUS MINUTES.**

The agenda item was deferred to the next meeting.

**MIN. NO. NA/DC-H/2025/447: MATTERS ARISING**

There were no matters arising.

**MIN. NO. NA/DC-H/2025/448: CONSIDERATION OF THE AMENDMENTS TO THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 61 OF 2022), SPONSORED BY HON. MILLIE ODHIAMBO, MP, FOLLOWING THE HARMONIZATION PROCESS.**

The Chairperson briefed the Committee on the progress made in harmonizing the Assisted Reproductive Technology Bill, 2022. The Committee had convened three joint meetings with Hon. Millie Odhiambo, MP (the sponsor), and Hon. Peter Kaluma, MP, to address divergent views and consolidate proposed amendments.

The Chairperson noted that consensus had been reached on most clauses through Committee-driven amendments. However, three key areas remained contentious and required further deliberation.

**Key Submissions and Discussions:**

**A. Hon. Peter Kaluma, MP, submitted the following issues for the Committee's consideration:**

- 1) The Bill should include a clear definition of altruistic surrogacy, as the term is used but not currently defined.
- 2) Clause 28(5) requires additional discussion with the Committee.
- 3) Clause 30(3) regarding parenting provisions remains contentious and needs further clarification.

Hon. Kaluma excused himself from the meeting to attend to another engagement and confirmed his availability for the meeting scheduled for Thursday, 7th August 2025.

**B. Summary of Committee Resolutions and Proposed Amendments with the presence of Hon. Millie Odhiambo, MP (the sponsor),**

**On the Commercialization of Surrogacy: The new Clause 28B (1) (g) was redrafted to read as follows:**

"Conduct education in any form that commercializing surrogacy."

**On Hon. Kaluma's amendment to delete subclause (3) and substitute it with a new Clause 30(3), the Committee highlighted the following:**

- 1) Confidentiality concerns were discussed regarding assisted reproduction treatments, highlighting the need for enforced security measures in handling access documents related to these records.
- 2) Data Protection Act, 2019 enables information sharing with third parties only when explicit consent is obtained from the patient, ensuring strict need-to-know access.
- 3) The committee agreed that, once registered in the Civil Registry, no court involvement is required, unless disputes arise, thereby streamlining the process for surrogacy arrangements.

**New Clause 30A – Payments Relating to Surrogacy: The Committee resolved that:**

- 1) Intended parents shall cover all pregnancy-related expenses to shield surrogates from financial hardship.
- 2) Discretionary payments are to be removed to avoid the commercialization of surrogacy, and permitted costs are to be retained to protect both surrogates and intended parents.

**Puerperium Period Provisions:**

- 1) The Committee extended the protected post-birth period to 12 weeks, based on member experiences and to allow for better recovery and support.
- 2) Coverage will include all medical complications resulting from the pregnancy, regardless of whether a live birth occurs, ensuring comprehensive post-natal care for surrogates.

**Committee resolution**

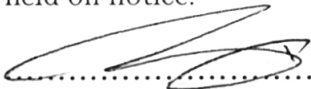
The Committee is to review the harmonization report ahead of the next sitting, scheduled for **Thursday, 7th August 2025**, commencing at 9:00 a.m., with Hon. Millie Odhiambo, MP (the sponsor) and Hon. Peter Kaluma, MP in attendance.

**MIN. NO. NA/DC-H/2025/449: ANY OTHER BUSINESS**

There was no other business

**MIN. NO. NA/DC-H/2025/450: ADJOURNMENT**

There being no other business, the meeting was adjourned at 12:30 p.m. The next meeting will be held on notice.

Sign.......... Date..... 12/8/2025.....

**HON. DR. NYIKAL JAMES WAMBURA, CBS, MP  
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH**



**MINUTES OF THE 68<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD AT BUNGE TOWER, 2<sup>ND</sup> FLOOR, ROOM 15, ON THURSDAY, 7<sup>TH</sup> AUGUST 2025 AT 10.00 AM.**

**PRESENT**

- |   |                   |
|---|-------------------|
| 1. The Hon. Dr. Nyikal James Wambura, MP              | -Chairperson      |
| 2. The Hon. Ntwiga Patrick Munene, MP                 | -Vice Chairperson |
| 3. The Hon. Dr. Pukose Robert, MP                     | -Member           |
| 4. The Hon. Prof. Jaldesa Guyo Waqo, MP               | -Member           |
| 5. The Hon. Oron Joshua Odongo, MP                    | -Member           |
| 6. The Hon. Owino Martin Peters, MP                   | -Member           |
| 7. The Hon. Sunkuli Julius Lekakeny Ole, EGH, EBS, MP | -Member           |
| 8. The Hon. Mathenge Duncan Maina, MP                 | - Member          |

**ABSENT WITH APOLOGY**

- |  |         |
|--|---------|
| 1. The Hon. Kipngor Reuben Kiborek, MP | -Member |
| 2. The Hon. Titus Khamala, MP          | -Member |
| 3. The Hon Kibagendi Antoney, MP       | -Member |
| 4. The Hon Wanyonyi Martin Pepela, MP  | -Member |
| 5. The Hon. Mary Maingi, MP            | -Member |
| 6. The Hon. Cynthia Muge, MP           | -Member |
| 7. The Hon. Lenguris Pauline, MP       | -Member |

**INATTENDANCE**

- |                             |         |
|-----------------------------|---------|
| 1. Hon. Peter Kaluma, MP    | -Member |
| 2. Hon. Millie Odhiambo, MP | -Member |

**COMMITTEE SECRETARIAT**

- |                                  |                        |
|----------------------------------|------------------------|
| 1. Mr. Hassan A. Arale           | -Clerk Assistant I     |
| 2. Mr. Timothy Kimathi           | -Clerk Assistant III   |
| 3. Ms. Gladys Kiprotich          | -Clerk Assistant III   |
| 4. Ms. Faith Chepkemoi           | -Legal Counsel II      |
| 5. Mr. Eric Lungai               | -Hansard Officer       |
| 6. Ms. Veronica Kithuka          | -Audio Intern          |
| 7. Ms. Sheila Chebotibin<br>Arms | -Principal Serjeant At |

**AGENDA**

1. Prayers;
2. Preliminaries;
3. Adoption of the Agenda.
4. Confirmation of previous minutes.
5. Matters arising

6. Any Other Business; and
7. **Consideration of the amendments to the Assisted Reproductive Technology Bill, 2022 (National Assembly Bill No. 61 of 2022), sponsored by Hon. Millie Odhiambo, MP, following the harmonization process.**
8. **Adoption of the Report on the Assisted Reproductive Technology Bill, 2022 (National Assembly Bill No. 61 of 2022), Sponsored by Hon. Millie Odhiambo, MP, following the harmonization process.**
9. Adjournment.

**MIN. NO. NA/DC-H/2025/451: PRELIMINARIES/INTRODUCTION**

The Chairperson called the meeting to order at eight minutes past ten o'clock, followed by the Prayer and self-introductions.

**MIN. NO. NA/DC-H/2025/452: ADOPTION OF AGENDA**

The agenda of the meeting was adopted, having been proposed by Hon. Oron Joshua Odongo, MP, and seconded by Hon. Owino Martin Peters, MP

**MIN. NO. NA/DC-H/2025/453: CONFIRMATION OF PREVIOUS MINUTES.**

The agenda item was deferred to the next meeting.

**MIN. NO. NA/DC-H/2025/454: MATTERS ARISING**

There were no matters arising.

**MIN. NO. NA/DC-H/2025/455: CONSIDERATION OF THE AMENDMENTS TO THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 61 OF 2022), SPONSORED BY HON. MILLIE ODHIAMBO, MP, FOLLOWING THE HARMONIZATION PROCESS.**

The Chairperson briefed the Committee on the progress made in harmonizing the Assisted Reproductive Technology Bill, 2022. This was the fourth meeting of the Committee on the matter, during which it received submissions from Hon. Peter Kaluma, MP, and Hon. Millie Odhiambo, MP. Having concluded hearings from the two Members, the Committee proceeded to consider the proposed changes.

The Committee deliberated on the Schedule of Amendments to the Assisted Reproductive Technology Bill, 2025, as presented in the Report, and adopted the amendments as contained therein. The amendments included replacing the term "parties to a marriage or commissioning parents" with "intended parents" in Clause 28 to prevent discrimination and ensure accurate legal terminology, and amending Clause 28B(i)(g) to require the conduct of education on commercial surrogacy. All other amendments to various clauses were adopted as contained in the Report without request for further amendments. The Committee also resolved to retain Clause 14, drop Clause 22, and delete Clause 34.

**COMMITTEE OBSERVATIONS ON THE HARMONIZATION OF PROPOSED AMENDMENTS TO THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 61 OF 2022)**

The Committee, having considered the amendments proposed to the Assisted Reproductive Technology Bill, 2022, by the Committee and Honourable Members, made the following observations:

- 1) The Regulations under the proposed Bill are too technical, substantive, and of great significance. As such, they require an affirmative resolution; that is, they should be approved in draft form by both Houses of Parliament before they are published by the Cabinet Secretary for Health.
- 2) There is a need to restrict the provision of assisted reproductive technology services to Kenyan citizens only, in order to prevent the exploitation of the citizens of Kenya.
- 3) The Bill also protects the rights of children born through assisted reproductive technology, including their registration in line with Article 53 of the Constitution and the Children Act (Cap. 141)

**COMMITTEE RECOMMENDATIONS ON THE HARMONIZATION OF PROPOSED AMENDMENTS TO THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 61 OF 2022)**

The Committee, having considered the amendments to the Assisted Reproductive Technology Bill, 2022, National Assembly Bill No. 61 of 2022, as proposed by the Committee and Hon. Peter Kaluma, MP, proposed the amendments set out in Chapter six of the report.

**MIN. NO. NA/DC-H/2025/456: ADOPTION OF THE REPORT ON THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 61 OF 2022), SPONSORED BY HON. MILLIE ODHIAMBO, MP, FOLLOWING THE HARMONIZATION PROCESS.**

The Committee adopted the report on the Assisted Reproductive Bill, 2022, (National Assembly Bill, No. 61 of 2022), sponsored by Hon Millie Odhiambo, MP, following the harmonization process, having been proposed by Hon. Dr. Robert Pukose, MP and Seconded by Hon. Prof Jaldesa Guyo Waqo, MP.

**MIN. NO. NA/DC-H/2025/457: ANY OTHER BUSINESS**

There was no other business

**MIN. NO. NA/DC-H/2025/458: ADJOURNMENT**

There being no other business, the meeting was adjourned at thirty minutes past noon. The next meeting will be held on notice.

Sign.......... Date.....12/3/2025.....

**HON. DR. NYIKAL JAMES WAMBURA, CBS, MP  
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH**



THE NATIONAL ASSEMBLY  
13TH PARLIAMENT – FOURTH SESSION (2025)  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
DEPARTMENTAL COMMITTEE ON HEALTH

REPORT ON THE  
HARMONIZATION OF THE PROPOSED AMENDMENTS TO THE ASSISTED  
REPRODUCTIVE TECHNOLOGY BILL, 2022 (NATIONAL ASSEMBLY BILL NO.  
61 OF 2022) BY THE HON. MILLIE ODHIAMBO, MP

We, the undersigned Members of the Departmental Committee on Health do hereby append  
our signatures to adopt this Report

Date: 7/8/2025

NO	NAME	SIGNATURE
1.	The Hon. Dr. Nyikal James Wambura, CBS, MP- <b>Chairperson</b>	
2.	The Hon. Ntwiga Patrick Munene, MP -Vice- <b>Chairperson.</b>	
3.	The Hon. Dr. Pukose Robert, CBS, MP	
4.	The Hon. Titus Khamala, MP	
5.	The Hon. Sunkuli Julius Lekakeny Ole, EGH, EBS, MP	
6.	The Hon. Prof. Jaldesa Guyo Waqo, MP	
7.	The Hon. Owino Martin Peters, MP	
8.	The Hon. Wanyonyi Martin Pepela, MP	
9.	The Hon. Lenguris Pauline, MP	
10.	The Hon. Mary Maingi, MP	
11.	The Hon. Muge Cynthia Jepkosgei, MP	
12.	The Hon. Oron Joshua Odongo, MP	
13.	The Hon. Kibagendi Antony, MP	
14.	The Hon. Mathenge Duncan Maina, MP	
15.	The Hon. Kipngor Reuben Kiborek, MP	

**MATRIX ON HARMONIZATION OF AMENDMENTS TO THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL, 2022**

<b>CLAUSE</b>	<b>COMMITTEE AMENDMENT</b>	<b>AMENDMENT BY HON. KALUMA</b>	<b>RESOLUTION</b>
Long Title	None	Be amended by deleting the words “to establish an Assisted Reproductive Technology Directorate”.	Hon. Kaluma’s amendment agreed to. The Committee to move the amendment.
Clause 1	None	None	
Clause 2	Clause 2 of the Bill be amended —	Clause 2 of the Bill be amended —	
Assisted reproductive technology	by deleting the definition of the term “assisted reproductive technology” and substituting therefor the following new definition— “assisted reproductive technology” means the manipulation of eggs, sperm or embryos outside the human body and transferring the gamete or embryo into the reproductive system of a woman to increase the likelihood of a successful pregnancy;	by deleting the definition of the term “assisted reproductive technology” and substituting therefor the following new definition— “assisted reproductive technology” means all techniques that attempt to obtain a pregnancy by handling the sperm or the oocyte outside the human body and transferring the gamete or the embryo into the reproductive system of a woman;	Committee amendment dropped; Hon. Kaluma’s amendment adopted and will be moved by the Committee.
Assisted reproductive technology expert	in the definition of the term “assisted reproductive technology expert” by inserting the words “and includes other professionals whose expertise is required in assisted reproductive technology” immediately after the words “fertility medicine”;	None	Committee amendment dropped.
Assisted reproductive technology services	None	in the definition of the term “assisted reproductive technology services” by deleting the words “infertile and sub- fertile man or woman” and substituting therefor the words “infertile couple”.	Hon. Kaluma’s dropped.
Cabinet Secretary	None	None	Retained as is in the Bill.

Child	deleting the definition of the term “child” and substituting therefor the following new definition— “child” means an individual who has not attained the age of eighteen years;	deleting the definition of the term “child” and substituting therefor the following new definition— “child” means any individual born through the use of assisted reproductive technology;	Committee amendment agreed to; Hon. Kaluma’s amendment dropped
Commissioning parents	None	None	Agreed to delete the definition of “commissioning parents” and substitute with “intended parent”.
Couple	in the definition of the term “couple” by inserting the words, “or intersex person” immediately after the word “female”;	by deleting the definition of the term “couple” and substituting therefor the following new definition—  “couple” means a Kenyan male and female who are in a marriage contracted under the Laws of Kenya;	The Committee and Hon. Kaluma amendments dropped. The Committee to move the following amendments:  “couple” means a male and female who are married or are cohabiting under the laws of Kenya.
Court	None	None	As is in the Committee
Cryo-preservation	deleting the definition of the term “cryo-preservation” and substituting therefor the following new definition— “cryo-preservation” means the assisted reproductive technology of freezing and storing of gametes, zygotes, embryos, ovarian and testicular tissues;	None	Committee agreed to
Diagnosis	None	None	Retained as his
Directorate	None	deleting the definition of the term “directorate”	Hon. Kaluma’s amendment dropped. The Committee to move an amendment defining the term “Council”.

donation	None	deleting the definition of the term "donation" and substituting therefor the following new definition— "donation" means a process in assisted reproductive technology of voluntarily giving gametes for purposes of procreation;	Hon. Kaluma's amendment adopted. The Committee to move the amendment.
donor	deleting the definition of the term "donor" and substituting therefor the following new definition— "gamete donor" means a person who provides sperm or oocyte with the objective of enabling an infertile person to have a child and the person need not be the spouse of the person he or she is donating the gametes to;	in the definition of the term "donor" by deleting the words "and the person need not be the spouse of the person she or he is donating the gametes to";	The Committee and Kaluma's amendment agreed to with amendments. The Committee to move the amendment as follows:  "gamete donor" means a person who voluntarily gives his or her gametes for the purpose of fertilization in an assisted reproductive technology process.
egg	None	None	Retained as is in the Bill.
embryo	deleting the definition of the term "embryo" and substituting therefor the following new definition— "embryo" means a cell or group of cells containing a diploid complement of chromosomes or group of such cells, not a gamete or gametes, that has the potential to develop into a live born human being if transferred into the body of a person under conditions in which gestation may be reasonably expected to occur	deleting the definition of the term "embryo" and substituting therefor the following new definition— "embryo" means a developing or developed organism after fertilization till the end of fifty-six days from the day of fertilization;	Kaluma's amendment dropped; Committee agreed to.
embryologist	in the definition of the term "embryologist" by inserting the words "the creation, development, storage and transfer of	None	The committee amendment agreed to subject to deletion of the word "creation".

	embryos, and” immediately after the words “deals with”		
Embryology	in the definition of the term “embryology” by deleting the words “gametes and development of embryos” and substituting therefor the words “creation, development, storage and transfer of gametes or embryos”	None	The Committee amendment dropped; the definition deleted.
Endoscopic surgery	In the definition of the term “endoscopic surgery” by deleting the words, “and passing a telescope with a video camera through the incision into the body cavity”;	None	Committee amendment agreed to
father	in the definition of the term “father” by — (i)deleting the words “placing in the woman an embryo or sperm and eggs or the artificial insemination” appearing in the opening sentence of that definition and substituting therefor the words “transferring into a uterus an embryo or sperm and eggs or the intrauterine insemination”; (ii)deleting the words “placing in the woman the embryo or the sperm and eggs or artificial insemination” appearing in paragraph (a) and substituting therefor the words “transferring into a uterus the embryo or the sperm and eggs or intrauterine insemination”; and (iii)deleting paragraph (b) and substituting therefor the following new paragraph— “(b) the man did not donate his sperms for the process of assisted reproduction, and at the time of transferring into a uterus, the embryo or the sperm and eggs or intrauterine insemination of the woman—	by deleting the definition of the term “father” and substituting therefor the following new definition— “father” means a male parent;	The Committee and Hon. Kaluma’s amendments dropped; The Committee to move the following new amendment: father means an intended male parent

	(i) the man was party to a marriage with the woman; or (ii) man has in agreement with the woman, written a parental agreement acquiring parental rights of a father; (iii) the man is a commissioning or intending parent at the time of assisted reproductive technology”;		
gamete	None	by deleting the definition of the term “gamete” and substituting therefor the following new definition— “gamete” means a sperm and oocyte or a mature sperm from a man and a mature egg from a woman;	Hon. Kaluma amendment dropped; retained the definition as is.
Infertile or sub-fertile client	None	None	Retained as is.
Infertility	None	in the definition of the term “infertility” by deleting the words “one year” and substituting therefor the words “five years”;	Hon. Kaluma amendment dropped
Intracytoplasmic sperm injection	None	None	Retained as is in the Bill.
In-vitro fertilization	in the definition of the term “in-vitro fertilization” by deleting the words “in a test-tube or elsewhere”	in the definition of the term “in-vitro fertilization” by deleting the words “an egg is fertilized by a sperm in a test-tube or elsewhere outside the body” and substituting therefor the words “fertilization takes place outside the body”;	Hon. Kaluma adopted. The Committee to move the amendment
mother	by deleting the definition of the term “mother” and substituting therefor the following new definition— “mother” means a woman who—	deleting the definition of the term “mother” and substituting therefor the following new definition— “mother” means a female parent or woman whose egg is fertilized to produce a child;	The committee and Hon. Kaluma’s amendments dropped. The Committee to move the following amendment:

	(i)is carrying or has carried a child as a result of placing in her an embryo or sperms; (ii)was party to a marriage with the man whose sperm was utilized to create an embryo; (iii)has in agreement with the man, written a parental agreement acquiring parental rights of a mother; or (iv)is a commissioning or intending parent at the time of assisted reproductive technology;		Mother means an intended female parent
oocyte	in the definition of the term “oocyte” by deleting the word “oocyte” and substituting therefor the word “egg”;	None	Committee agreed to
Parties to a marriage	by deleting the definition of the term “parties to a marriage”;	None	Committee agreed to
Pre-implantation genetic diagnosis	in the definition of the term “pre-implantation genetic diagnosis” by deleting the words “and eliminating the same”	None	Committee agreed to
Pre-implantation screening	in the definition of the term “pre-implantation screening” by deleting the words “to determine the number of chromosomes” and substituting therefor the words “to determine the viability or euploidy of an embryo before transferring to the woman’s womb”	None	Committee agreed to
Primitive streak	by deleting the definition of the term “primitive streak”;	None	Committee agreed to
Procreation	None	None	The Committee to move an amendment as follows (by deleting the words “whether through an assisted

			reproduction technology process or through natural means” and substituting therefor the words “including through assisted reproductive technology”).
Sperm	by deleting the definition of the term “sperm” and substituting therefor the following new definition— “sperm” means the mature male human gamete;	by deleting the definition of the term “sperm” and substituting therefor the following new definition— “sperm” means the mature male gamete;	The Committee amendment agreed to
Surrogacy	in the definition of the term “surrogacy” by deleting the words “a commissioning parent or couple” and substituting therefor the words “an intended parent”;	by deleting the definition of the term “surrogacy” and substituting therefor the following new definition— “surrogacy” means a practice whereby one woman bears and gives birth to a child for an intending couple with the intention of handing over such a child to the intending couple after the birth;	The Committee amendment and Hon. Kaluma’s amendment agreed to with amendment as follows:  “surrogacy” means a practice whereby one woman bears and gives birth to a child for an intended parent or couple.
Surrogate mother	in the definition of the term “surrogate mother” by deleting the words “another woman” and substituting therefor the words “another person or a couple	by deleting the definition of the term “surrogate mother” and substituting therefor the following new definition— “surrogate mother” means a woman who agrees to bear a child, who is genetically related to the intending couple, through surrogacy from the implantation of an embryo in her womb; and	The Committee and Hon. Kaluma’s amendments. The Committee to move the following amendment: Surrogate mother means a woman has agreed to carry a pregnancy to term for another woman or couple”.
Treatment services	None	None	Agreed to as in the Bill
NEW DEFINITIONS	by inserting the following new definitions in the proper alphabetical sequence—	by inserting the following new definitions in their proper alphabetical sequence—	

	<p>“abandonment” means failure to continue to pay for cryopreservation storage of gametes or embryos; (ADOPTED)</p> <p>“best interest of the child” has the meaning assigned to it under section 2 of the Children Act;</p> <p>“clinic” means a health facility licensed under this Act for the purpose of conducting assisted reproduction procedures;</p> <p>“cryo bank” means a facility set up to store and supply human gametes or embryos;</p> <p>“foetus” means the developing human offspring after the embryonic stage prior to birth;</p> <p>“gestational surrogacy” means the process where a woman who did not provide or donate an egg, carries a pregnancy for the intended parents;</p> <p>“intended parents” means a couple or commissioning parents who enter into a surrogacy arrangement seeking assistance in procreation through the help of a surrogate mother or donor;</p> <p>“intersex” means a person with a congenital condition in which the biological sex characteristics cannot be exclusively categorized in the common binary male or female due to inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns;</p> <p>“ovum” means a single cell released from either of the female reproductive organs that is capable of developing into a new organism when fertilized with a sperm cell;</p>	<p>“abandoned child” means a child born out of a surrogacy procedure who has been deserted by his or her intending parents and the surrogate and declared as such by the court after due process;</p> <p>“altruistic surrogacy” means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses or the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative;</p> <p>“assisted reproductive technology bank” means an organization that is responsible for the collection and storage of gametes and embryos and the supply of gametes to the assisted reproductive technology clinics or their patients;</p> <p>“assisted reproductive technology clinic” means a premise equipped with the requisite facilities and medical practitioners registered with the Council for purposes of carrying out the procedures related to assisted reproductive technology;</p> <p>“commercial surrogacy” means the commercialization of surrogacy services or procedures or its component services or component procedures including the selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or hiring, selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or</p>	<p>The amendments agreed to as follows:</p> <p>“abandoned child” means a child born out of a surrogacy procedure who has been deserted by his or her intending parents and the surrogate and declared as such by the court after due process;</p> <p>“abandonment” means failure to continue to pay for cryopreservation storage of gametes or embryos;</p> <p>“altruistic surrogacy” means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses or the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative;</p> <p>“clinic” means a health facility licensed under this Act for the purpose of conducting assisted reproduction procedures;</p> <p>“cryo bank” means a facility that is responsible for the collection and storage of gametes and embryos and</p>
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	<p>“pre-implantation genetic testing” means all techniques used to identify genetic defects and aneuploidy in embryos created through in-vitro fertilization before transfer;</p> <p>“supervisor” means the person responsible for activities authorized under the licence issued under this Act;</p> <p>“surrogacy agreement” means an agreement between a surrogate and an intended parent or intended parents that the surrogate is to undergo an assisted reproduction procedure for purposes of having a child born as a result of such procedure being treated in law as—</p> <p>(a)the child of the intended parent or parents; and</p> <p>(b)not being the child of the surrogate or any other individual; and</p> <p>“zygote” means a diploid cell resulting from the fusion of two haploid gametes.</p>	<p>monetary incentive in cash or in kind, to the surrogate mother or her dependents or her representative, except the medical expenses or the insurance coverage for the surrogate mother;</p> <p>“Council” means the Kenya Medical Practitioners and Dentists Council established under section 3 of the Medical Practitioners and Dentists Act;</p> <p>“fertilization” means the penetration of the ovum by the spermatozoa and fusion of genetic materials resulting in the development of a zygote;</p> <p>“foetus” means a human organism during the period of its development beginning on the fifty-seventh day following fertilization or conception until birth;</p> <p>“gamete donor” means a person who provides a sperm or oocyte with the objective of enabling an infertile couple or woman to have a child;</p> <p>“gestational surrogacy” means a practice whereby a woman carries a child for the intending couple through implantation of an embryo in her womb and the child is not genetically related to the surrogate mother and when it is only for altruistic surrogacy purposes, it is not for commercial purposes or for producing children for sale, prostitution or any other form of exploitation;</p> <p>“implantation” means the attachment and subsequent penetration by the zona-free blastocyst, which starts five to seven days following fertilization;</p>	<p>the supply of gametes to the assisted reproductive technology clinics or their patients;</p> <p>“commercial surrogacy” means the commercialization of surrogacy services or procedures or its component services or component procedures including the selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or hiring, selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or monetary incentive in cash or in kind, to the surrogate mother or her dependents or her representative, except the medical expenses or the insurance coverage for the surrogate mother;</p> <p>“foetus” means the developing human offspring after the embryonic stage prior to birth;</p> <p>“gestational surrogacy” means the process where a woman who did not provide</p>
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		<p>“intending couple” means a couple who have a medical indication necessitating gestational surrogacy and who intend to become parents through surrogacy;</p> <p>“intending woman” means a Kenyan woman who is a widow or divorcee between the age of thirty five to forty five years and who intends to avail the surrogacy;</p> <p>“intending parents” means an infertile married couple who approach an assisted reproductive technology clinic or assisted reproductive technology bank to obtain the services authorized in respect of that clinic or bank;</p> <p>“patients” means an individual or a couple who goes to a registered assisted reproductive technology clinic for the management of infertility;</p> <p>“surrogacy clinic” means a surrogacy clinic, centre or laboratory conducting assisted reproductive technology services, in-vitro fertilization services, genetic counselling centre, genetic laboratory and assisted reproductive technology banks conducting a surrogacy procedure or any clinical establishment conducting surrogacy procedures in any form;</p> <p>“surrogacy procedures” means all gynecological, obstetrical or medical procedures, techniques, tests, practices or services involving the handling of human gametes and human embryo in surrogacy;</p> <p>“woman” means any woman above the age of twenty-one years who approaches an assisted reproductive technology clinic or an</p>	<p>or donate an egg carries a pregnancy for the intended parents or couple;</p> <p>“intersex” means a person with a congenital condition in which the biological sex cannot be categorized as male or female due to inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns;</p> <p>“ovum” means a single cell released from either of the female reproductive organs that is capable of developing into a new organism when fertilized with a sperm cell;</p> <p>“pre-implantation genetic testing” means all techniques used to identify genetic defects and aneuploidy in embryos created through in-vitro fertilization before transfer;</p> <p>“supervisor” means the person responsible for activities authorized under the licence issued under this Act;</p> <p>“surrogacy agreement” means an agreement between a surrogate and an intended parent or couple that the surrogate is to</p>
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		<p>assisted reproductive bank for purposes of obtaining the authorized services of that clinic or bank;</p> <p>“prescribed” means prescribed by rules made under this Act;</p> <p>“zygote” means the fertilized oocyte prior to the first cell division.</p>	<p>undergo an assisted reproduction procedure for purposes of having a child born as a result of such a procedure for the intended parent or couple; and</p> <p>“zygote” means a diploid cell resulting from the fusion of two haploid gametes.</p> <p>An offence to be introduced to cover instances where an intended parent abandons a child born through assisted reproductive technology.</p>
Clause 3	<p>By deleting Clause 3 and substituting therefor the following new clause 3—</p> <p>3. This Act applies to a medically assisted reproductive process whether or not the process is completed outside the human body.</p>	<p>By deleting Clause 3 and substituting therefor the following new clause 3—</p> <p>3. This Act applies to—</p> <p>(a) all processes of facilitated human fertilization undertaken outside the human body, whether or not the process is completed outside the human body; and</p> <p>(b) heterosexual Kenyan couples, divorced, widowed or single parent Kenyans who have been certified by an assisted reproductive technology expert as infertile or as having other proven medical conditions preventing natural conception.</p>	<p>Clause 3 to be recommitted. Hon. Kaluma’s amendment 3(a) agreed to with amendment as follows. The Committee to move the amendment as follows:</p> <p>“3. This Act applies to Kenyan citizens only”.</p> <p>Hon. Kaluma’s amendment to 3(b)- not agreed to</p>
Clause 4	<p>Be amended by—</p> <p>(a) deleting the words “object and purpose” appearing in the marginal note and</p>	<p>Be amended by deleting paragraphs (a), (b) and (c) and substituting therefor the following new paragraphs—</p> <p>(a) permit altruistic surrogacy;</p>	<p>Already considered by the House and amended as follows:</p>

	<p>substituting therefor the word "objects"; and</p> <p>(b) inserting the following new paragraphs immediately after paragraph (c) —</p> <p>"(d) ensure the best interest of children;</p> <p>(e) facilitate the registration of children born out of gestational surrogacy arrangements;</p> <p>(f) promote research into the incidence, causes and prevention of infertility;</p> <p>(g) provide a framework for surrogacy arrangements;</p> <p>(h) prohibit commercial surrogacy; and</p> <p>(i) establish an assisted reproduction Directorate".</p>	<p>(b) prohibit commercial surrogacy; and</p> <p>(c) make consequential provisions thereto.</p>	<p>"4. The objects of this Act is to—</p> <p>(a) provide a framework for assisted reproductive technology services for every person;</p> <p>(b) create an enabling environment for the reduction of infertility and sub-fertility in Kenya;</p> <p>(c) ensure access to quality and comprehensive assisted reproductive technology services in line with Article 43(1)(a) of the Constitution.</p>
NEW CLAUSE 4A	<p>The Bill be amended by inserting the following new clause immediately after clause 4</p>	None	<p>The Committee amendment dropped.</p>
4A	<p>Guiding Principles</p> <p>4A. The application of this Act shall be guided by principles including—</p> <p>(a) the best interest of the child born as a result of assisted reproductive procedures;</p> <p>(b) non-exploitation of parties;</p> <p>(c) non-discrimination including on marital status; and</p> <p>(d) affordability of procedures under this Act.</p>		
Clause 5	None	<p>The Bill be amended by deleting Clause 5.</p>	<p>Hon. Kaluma's amendment dropped.</p>

			<p>Agreed to:</p> <p>1. Redraft clause 5 as follows:</p> <p>“(5) The Council shall establish a Committee to be known as the Assisted Reproductive Technology Committee.”</p> <p>2. Include a Schedule on the conduct of business of the aforementioned Committee.</p> <p>Hon. Kaluma dropped his amendment.</p> <p>Agreed to:</p> <p>1. Substitute the word “Directorate” with “Council” in this clause and wherever it appears in the Bill.</p> <p>2. Delete the words “in consultation with the Medical Practitioners and Dentist Council,” appearing in paragraph (i).</p> <p>The Committee Amendment agreed to.</p> <p>Hon. Kaluma’s amendment not agreed to.</p> <p>Hon. Kaluma’s amendments not agreed to.</p>
Clause 6	None	<p>Be amended by—</p> <p>(a) deleting the opening sentence and substituting therefor the following new opening sentence—</p> <p>“The functions of the Council, in respect of the regulation of the use assisted reproductive technology, shall be to—”</p> <p>(b) deleting the words “in consultation with the Medical Practitioners and Dentist Council,” appearing in paragraph (i).</p>	
Clause 7	Be amended by deleting the words “National Government” and substituting therefor the words “Cabinet Secretary”.	The Bill be amended by deleting Clause 7	
Clause 8	Be amended—	The Bill be amended by deleting Clause 8	

	<p>(a) inserting the word “training,” immediately after the words “National Government in” appearing in paragraph (a);</p> <p>(b) deleting the word “adequate” appearing in paragraph (b); and</p> <p>(c) deleting the words “sufficient” and “adequately” appearing in paragraph (c).</p>		<p>Committee amendments resolved as follows:</p> <p>1.delete (a); the aspect of collaboration with the county governments already provided for in the existing clause 7(d).</p> <p>2.amend (b) to delete the words “including finances required to hire adequate personnel” appearing in the existing clause 8 (b).</p> <p>3. (c) to remain as is.</p>
9	<p>Be amended by inserting the following new sub-clause immediately after sub-clause (2)—</p> <p>“(3) A person shall be qualified for appointment as a Director if the person—</p> <p>(a) holds a bachelor’s degree in medicine from a university recognized in Kenya;</p> <p>(b) holds a master’s degree in obstetrics, gynaecology, embryology, fertility medicine or other relevant field from a university recognized in Kenya;</p> <p>(c) has at least ten years’ experience in assisted reproductive technology;</p> <p>(d) has served in a senior management position for at least five years;</p> <p>(e) is a member in good standing of a professional body; and</p> <p>(f) meets the requirements of Chapter Six of the Constitution.”</p>	the Bill be amended by deleting Clause 9	Agreed to delete Clause 9.
10	None	the Bill be amended by deleting Clause 10	Agreed to delete Clause 10.

11	None	None	Clause 11 agreed to as is.
12	Be amended in sub-clause (1) by deleting the words “written consent, in accordance with the prescribed Regulations, to its use for that purpose” and substituting therefor the words “written informed consent”.	Be amended in sub-clause (1) by deleting the words “in accordance with the prescribed Regulations, to its use for that purpose”.	Hon. Kaluma dropped his amendment; the Committee amendment agreed to.
Clause 13	Be amended in— (a) the marginal note by inserting the word “informed” immediately before the word “consent”; and (b) sub-clause (1) by deleting the words “written consent, in a manner prescribed by Regulations, to its removal for that purpose” and substituting therefor the words “written informed consent”.	Be amended in sub-clause (1) by deleting the words “unless the donor of the material had given written consent, in a manner prescribed by Regulations, to its removal for that purpose” appearing immediately after the words “technology”.	Hon. Kaluma dropped his amendment; the Committee amendment agreed to.
Clause 14	Be amended by deleting the words “medical doctor that the person requires assisted reproductive technology on medical or health grounds” and substituting therefor the words “a doctor who is an assisted reproductive technology expert, that the person requires assisted reproductive technology”.	Be amended by inserting the words “is infertile, cannot conceive or carry a pregnancy to term,” immediately after the words “medical doctor that the person”.	Hon. Kaluma’s amendment dropped. The Committee amendment agreed to with amendment as to retain medical or health grounds. As such, by deleting the words “medical doctor” and substituting therefor the words “doctor who is an assisted reproductive technology expert”.
Clause 15	None	Be amended in sub-clause (1) by deleting the word “purely” appearing in paragraph (c).	Hon. Kaluma’s amendment agreed to. The Committee to move the amendment
16	Be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b)— “(c) a gamete or embryo other than that consented to by the woman;”	None	The Committee’s amendment agreed to.

17	<p>Be amended by—</p> <p>(a) deleting the word “minor” appearing in the marginal note and substituting therefor the words “a child”.</p> <p>(b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—</p> <p>“(1) A person shall not obtain a sperm or ovum from a child or use any sperm or ovum obtained from a child except for medical reasons and future human procreation by the child and with informed consent of the minor, parent or legal guardian of the child.”</p>	<p>Be amended by deleting sub clause (1) and substituting with the following new sub clause—</p> <p>“(1) No person shall obtain a sperm or ovum from a child or a deceased child.”</p>	<p>Hon. Kaluma dropped his amendment. The Committee’s amendment agreed to.</p>
18	<p>Be amended by—</p> <p>(a) deleting the marginal note and substituting the following new marginal note—</p> <p>“Restrictions on the use of embryos”.</p> <p>(b) deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—</p> <p>“(1) A person shall not—</p> <p>(a) keep or use an embryo other than a human embryo;</p> <p>(b) place a human embryo in any animal;</p> <p>(c) transfer an embryo in a woman other than a human embryo;</p> <p>(d) keep or use a human embryo in circumstances prohibited under this Act or as prescribed by regulations;</p> <p>(e) replace any part of a human embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such</p>	<p>Be amended by deleting the word “Directorate” and substituting therefor the word “Council”.</p>	<p>Hon. Kaluma dropped his amendment. The Committee’s amendment agreed to.</p>

	replacement is for purposes of solving a medical problem; or (f) undertake any form of human cloning.”		
19	Be amended in sub-clause (1) by— (a) inserting the word “informed” immediately after the words “without his” appearing in paragraph (b); (b) inserting the word “informed” immediately after the words “without her” appearing in paragraph (c); (c) deleting the words “place sperm and eggs or embryo in a woman” appearing in paragraph (e) and substituting therefor the words “transfer sperms or embryo into a womb”; and (d) inserting the following new paragraph immediately after paragraph (e)— “(f) in the course of providing assisted reproductive treatment services for any woman, use the sperm of any man without the woman’s informed consent”.	None	The Committee’s amendment agreed to.
<u>NEW CLAUSE 19A, 19B, AND 19C</u>	Be amended by inserting the following new clauses immediately after clause 19—	None	-
19A	Number of times one can donate gametes or embryos or be a surrogate. 19A. (1) A person shall not donate their gametes or embryos more than ten times. (2) A person shall not perform a treatment procedure using gametes or an embryo produced by a donor if such procedure may result in more than ten children who are genetic siblings.	None	The Committee’s amendment agreed to.

	(3) A surrogate mother shall not enter into a surrogacy agreement more than three times in her lifetime and shall be required to wait for two years between each birth to be eligible for another surrogacy agreement.		
19B	<p>Donation of gametes or embryos</p> <p>19B. (1) A cryo bank shall obtain—</p> <p>(a) male gametes from males between twenty-one years of age and thirty-five years of age; or</p> <p>(b) oocytes from females between twenty-three years of age and thirty-five years of age.</p> <p>(2) An assisted reproductive clinic under this Act shall examine donors for diseases as may be prescribed by the Directorate.</p>	None	The Committee's amendment agreed to subject to deleting the word "Directorate" and substituting therefor the word "Council".
19C	<p>Disposal of gametes.</p> <p>19C.(1)The Directorate may, under such conditions as may be prescribed, permit—</p> <p>(a) disposal of gametes after ten years of preservation;</p> <p>(b) donation of gametes to other couples pursuing assistive reproductive technology; or</p> <p>(c) the conduct of research on stem cells and zygotes that are not more than fourteen days old on a written application and where;</p> <p>(i) the applicant undertakes to document the research for record purposes; and</p> <p>(ii) prior consent is obtained from the donor of the stem cells or zygotes.</p> <p>(2) A person who contravenes this provision is guilty of an offence and is liable on conviction, to a fine not exceeding five</p>	None	The Committee's amendment agreed to subject to deleting the word "Directorate" and substituting therefor the word "Council".

	million shillings or to imprisonment for a term not exceeding five years, or to both.		
20	<p>THAT, Clause 20 of the Bill be amended by—</p> <p>(a) deleting the marginal note and substituting therefor the following new marginal note—“Posthumous reproduction”</p> <p>(b) renumbering the existing clause as sub-clause (1);</p> <p>(c) deleting paragraph (b) of the renumbered sub-clause (1) and substituting therefor the following new paragraph (b) — “(b)there was informed consent in writing by the man.”</p> <p>(d) inserting the following new sub-clause immediately after the renumbered sub-clause (1) — “(2) Where the ovum of a woman or an embryo, the creation of which resulted from the ovum of that woman, was used after the death of that woman, that woman shall not be treated as the mother of the child born out of that ovum or embryo unless the — (a) father was married to the woman at the time of the death of the woman; and (b) woman had given informed consent in writing”.</p>	The Bill be amended by deleting Clause 20.	Hon. Kaluma dropped his amendment. The Committee’s amendment agreed to.
21	None	Be amended— (a)by deleting the word “Directorate” appearing in sub-clause (2) and substituting therefor the word “Council”; and	Hon. Kaluma’s amendment agreed to subject to deletion of the word “Directorate” with the word “Council”. The Committee to move the amendment.

		(a)in sub-clause (3) by inserting the following new sub paragraph immediately after sub paragraph (iv) — “(v) the right of a child born through assisted reproductive technology to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not”.	
22	None	Be amended by deleting the words “intersex persons” appearing immediately before the words “have access” and substituting therefor the words “heterosexual Kenyan citizens certified by an assisted reproductive technology expert as infertile or as having other medical conditions preventing natural conception”.	Hon. Kaluma’s amendment dropped. The Committee to an amendment to delete the clause.
NEW CLAUSE 22A	Be amended by inserting the following new clause immediately after clause 22— Right to assisted reproductive technology by persons with disability 22A. The national and county governments shall put in place measures to ensure that persons with disability have access to appropriate assisted reproductive technology services.	None	The Committee amendment dropped.
23	Be amended— (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)— “(2) The consent under subsection (1) shall make express provisions on— (a) the ownership of the gametes or embryos;	Be amended by— (a)inserting the following new sub-clause immediately after sub-clause (2)— “(3) The consent under subsection (1) shall provide for the right of the child born through assisted reproductive technology to parental care and protection, which includes equal responsibility of the mother and father	Hon. Kaluma dropped all his amendments. The Committee amendments agreed to subject to:  1.deleting the word “embryo” wherever it appears

	<p>(b) the number of embryos to be implanted; and</p> <p>(c) what should be done with the gametes or embryos in case of—</p> <p>(i) the death of any of the parties seeking assisted reproductive technology services;</p> <p>(ii) incapacity of any of the parties seeking assisted reproductive technology services;</p> <p>(iii) abandonment of the gametes or embryos;</p> <p>(iv) dispute;</p> <p>(v) divorce; or</p> <p>(vi) separation.”</p> <p>(b) in sub-clause (3) by deleting the words “death or incapacity of any of the parties” and substituting therefor the words “the circumstances set out in subsection 2(c)”; and</p> <p>(c) in sub-clause (4) by deleting the word “implanting” and substituting therefor the words “transfer of”.</p>	<p>to provide for the child, whether they are married to each other or not”.</p> <p>(b) deleting the existing sub-clause (3) and substituting therefor the following new sub-clause—</p> <p>“(3) The assisted reproductive technology clinics and assisted reproductive technology banks shall not cryo preserve any gamete without specific instructions and consent in writing from all the parties seeking assisted reproductive technology in respect of what should be done with the gametes in case of death or incapacity of any of the parties”.</p> <p>(c) deleting the words, “the embryos or” appearing in sub-clause (4).</p>	<p>2. deletion of the word “embryo” in the existing clause 23(4).</p>
24	<p>Be amended in—</p> <p>(a) sub-clause (1) by deleting the word “all” appearing in paragraph (b) and substituting therefor the words “possible hereditary”;</p> <p>(b) sub-clause (2) by—</p> <p>(i) inserting the words “if any” immediately after word “skills” appearing in paragraph (g); and</p> <p>(ii) inserting the following new paragraphs immediately after paragraph (g) —</p>	<p>Be amended in sub-clause (1) (c) by inserting the words “under Article 53 of the Constitution including the right to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not” immediately after the word “process”.</p>	<p>The Committee and Hon. Kaluma’s amendments dropped.</p>

	“(h) consent or otherwise to disclosure of identity to possible offspring”; “(i) consent or otherwise for the use of donated material for research”.		
NEW CLAUSE 24A	Pre-implantation diagnosis or testing. 24A. (1) A donor shall undergo a pre-implantation diagnosis or testing for purposes of screening the human embryo or gamete for known, pre-existing, heritable or genetic diseases. (2) The donation of an embryo after pre-implantation genetic diagnosis to an approved research laboratory for research purposes shall be done — (a) with the approval of the commissioning couple or woman; and (b) when the embryo suffers from pre-existing, heritable, life-threatening or genetic diseases.	None	1. Committee amendment 24A(1) agreed to.  2. Committee amendment 24A(2) dropped.
25	The Bill be amended by deleting Clause 25.	The Bill be amended by deleting Clause 25.	Hon. Kaluma dropped his amendment; the Committee amendment agreed to.
26	Be amended by— (a) deleting the words “sexual intercourse” appearing in sub-clause (1) and substituting therefor the words “natural conception”; (b) deleting the words “both partners reserve the right to withdraw consent of the implantation of the embryo which has been created by their own sperm or ovum” appearing in sub-clause (3) and substituting therefor the words “both parties will be bound by the agreement	Be amended — (a) in sub-clause (1) by deleting the words “sexual intercourse” and substituting therefor the words “natural conception”; (b) by deleting sub-clauses (2), (3), (4) and (5).	Hon. Kaluma dropped his amendments; The Committee amendment resolved as follows:  1. amendment (a) agreed to 2. amendment (b) dropped 3. amendment (c) dropped such that withdrawal of consent is guaranteed by the law itself and not subject to an agreement.

	<p>and the consent given for the procedure"; and</p> <p>(c) deleting sub-clause (5) and substituting therefor the following new sub-clause (5)—</p> <p>"(5) A child born out of surrogacy or any procedure under this Act shall acquire the citizenship of the intended parent."</p>		<p>4. the existing clause 26(2) deleted as sub-clause (1) sufficiently addresses the best interests of the child born through assisted reproductive technology.</p> <p>5. the existing clause 26(4) and 26(5) deleted in light of the agreed to amendment that the Act shall only to Kenyan citizens only.</p>
<p>27</p>	<p>be amended—</p> <p>(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause (1)—</p> <p>"(1) A woman who—</p> <p>(a) has attained the age of twenty-five years;</p> <p>(b) is below the age of forty years;</p> <p>(c) has given birth at least to one child;</p> <p>(d) understands the rights and obligations accruing under a surrogacy agreement; and</p> <p>(e) has undergone comprehensive mental and physical health assessments</p> <p>may consent to a process of assisted reproduction for purposes of surrogate motherhood."</p> <p>(b) in sub-clause (2) by—</p> <p>(i) deleting the word "child" "appearing immediately after the words "carry the" and substituting therefor the word "foetus"; and</p> <p>(ii) deleting the words "parties to a marriage or couple" and substituting therefor the words "intended parents".</p>	<p>Be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—</p> <p>"(2) The surrogate mother under subsection (1) shall carry the child on behalf of the couple and where the surrogate mother has no genetic connection with the child shall subject to a court order relinquish all parental rights and responsibilities at birth over the child to the intended parents".</p>	<p>The Committee resolved as follows:</p> <p>1. amendment (a) agreed to subject to deletion of the word "forty" with "forty five".</p> <p>2. amendment (b) agreed to.</p> <p>3. The Bill to adopt the term "intended parents" and the term "commissioning parents" to be substituted with "intended parents".</p> <p>Hon. Kaluma's amendments agreed to and will be moved by the Committee.</p>

<p><u>NEW CLAUSES</u> <u>27A AND</u> <u>27B</u></p>	<p>The Bill be amended by inserting the following new clauses immediately after clause 27—</p>	<p>None</p>	<p>-</p>
<p><u>27A</u></p>	<p>Intended parents. 27A. An intended parent may use assisted reproduction where the person— (a) is a Kenyan; and (b) has attained the age of twenty-five years; and is below the age of fifty-five years.”</p>	<p>None</p>	<p>The Committee amendments agreed to.</p>
<p><u>27B</u></p>	<p>Leave related to surrogacy. 27B. (1) A surrogate mother under this Act shall be entitled to three months lochia leave. (2) An intended mother under this Act shall be entitled to three months maternity leave. (3) An intended father under this Act shall be entitled to two weeks paternity leave.</p>	<p>None</p>	<p>The Committee amendments agreed to.</p>
<p>28</p>	<p>Be amended— (a)in sub-clause (1) by deleting the words “Parties to a marriage” and substituting therefor the words “intending parents”; (b)in sub-clause (3) by inserting the following new paragraphs immediately after paragraph (g)— “(h) where the surrogate appoints a next of kin and provides the identity information of the appointed guardian; (i) where the intending parents appoint a guardian and provides the identity information of the appointed guardian;” (c)by deleting sub-clause (5) and substituting therefor the following new sub-clause—</p>	<p>Be amended in— (a)sub-clause (1) by deleting the words “Parties to a marriage or commissioning parents” and substituting therefor the words “A couple or intended parents”; (b)sub-clause (3)(c) by— (i)deleting sub-paragraph (i) and substituting therefor the following new subparagraph — “(i) death of the intended parent, or if a couple, death of one of the intended parents before the birth of the child;” (ii)deleting sub-paragraph (ii) and substituting therefor the following new subparagraph —</p>	<p>The Committee amendments resolved as follows: 1.Clause 28(1)- The Committee amendment (a) agreed to. 2.Clause 28(2)- agreed to as is 3.Clause 26(3)- • Hon. Kaluma amendments agreed to and the term “commissioning parents” to be substituted with “intended parents”.</p>

<p>“(5) The Directorate shall carry out pre-approval checks and shall satisfy itself that the—</p> <p>(a) surrogate and the intended parent or parents have undergone appropriate medical assessments including an assessment on the health of the surrogate, pre-implantation genetic testing or diagnosis;</p> <p>(b) surrogate and the intended parent or parents have received appropriate counselling and legal advice about the implications of signing the surrogacy agreement and that a report by a counsellor reveals the positive welfare of a child who may be born as a result of an assisted reproduction procedure and the positive welfare of other children who may be affected by any such birth; and</p> <p>(c) intended parents have taken out an appropriate insurance policy to cover the surrogate becoming ill, with protection under the policy starting no later than the day on which the first assisted reproduction procedure is to be carried out under the surrogacy agreement and ending five years after the surrogate has given birth.”</p> <p>(d) by inserting the following new sub-clause immediately after the new sub-clause (5)—</p> <p>“(6) A person may apply to the High Court for any necessary orders on matters relating to—</p> <p>(a) the validity of a surrogacy agreement;</p> <p>(b) a dispute relating to parentage of a child born as a result of an assisted reproduction procedure; or</p>	<p>“(ii) separation or divorce of the intended parents who were a couple, before the birth of the child;”</p> <p>(c) sub-clause (3)(d) by deleting the words “commissioning parent or commissioning parents” and substituting therefor the words “intended parent or intended parents”;</p> <p>(d) sub-clause (3)(g) by deleting the words “commissioning parent, commissioning parents or parties to marriage” and substituting therefor the words, “intended parent, intended parents or couple”; and</p> <p>(e) sub-clause (7) by deleting the words “Parties to a marriage” and substituting therefor the word “couple ”</p>	<ul style="list-style-type: none"> <li>• the Committee amendment (b) agreed to.</li> </ul> <p>4. Clause 28(4)- agreed to as is</p> <p>5. amendment (c) to Clause 28(5)- agreed to</p> <p>6. The new sub-clause (5) proposed by the Committee on pre-approval checks agreed to subject to deleting the word “Council” and substituting therefor the word “Committee”.</p> <p>7. The new sub-clause (6) proposed by the Committee was also agreed to subject to deletion of the paragraph “(c) the citizenship of a child born as a result of an assisted reproduction procedure.”</p> <p>8. Clause 28(7)-</p> <ul style="list-style-type: none"> <li>• Committee amendment agreed to.</li> <li>• Hon. Kaluma’s amendment dropped.</li> </ul> <p>9. new sub-clause 8,9, 10- Committee amendment agreed to.</p>
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	<p>(c)the citizenship of a child born as a result of an assisted reproduction procedure.”</p> <p>(e)in sub-clause (7) , by deleting the words “in the process” and substituting therefor the words “as a consequence”; and</p> <p>(f)by inserting the following new sub-clauses immediately after sub-clause (7)—</p> <p>“(8) A surrogacy agreement may indicate the terms of the agreement including terms prohibiting the surrogate from—</p> <p>(a)partaking alcohol;</p> <p>(b)smoking;</p> <p>(c)using unprescribed drugs;or</p> <p>(d)engaging in dangerous activity that may affect the health or life of a child conceived through assisted reproduction technology.</p> <p>(9)The terms of the agreement under subsection (8) shall not be overly tasking or prejudicial to the surrogate.</p> <p>(10)The Cabinet Secretary shall make regulations for the better carrying out of the provisions of subsection (8).”</p>		
<u>NEW CLAUSES 28A AND 28B</u>	The Bill be amended by inserting the following new clauses immediately after clause 28—	None	
<u>28A</u>	<p>Surrogacy agreements by third parties.</p> <p>28A. (1) No person shall on a commercial basis engage in acts in Kenya or knowingly cause another person to engage in acts on a commercial basis including—</p> <p>(a)initiating or taking part in any negotiations with the intention of the making of a surrogacy arrangement;</p>	None	The new clause 28A agreed to save for clause 28A(3) which was dropped.

	<p>(b) offering or agreeing to negotiate the making of a surrogacy arrangement; or  (c) compiling any information with the intent of using such information in making or negotiating the making of surrogacy arrangements.</p> <p>(2) For the purposes of this section, a person engages in an act on commercial basis where—</p> <p>(a) any payment is at any time received by himself or another in respect of that act; or  (b) the person engages in that act with the purpose of any payment being received by himself or another in respect of making, negotiating or facilitating the making of any surrogacy arrangement.</p> <p>(3) In this section, “payment” does not include payment to or for the benefit of a surrogate mother or prospective surrogate mother.</p>		
<p><u>28B</u></p>	<p>Commercialization of surrogacy.</p> <p>28B. (1) No person, organization, surrogacy clinic, laboratory or clinical establishment of any kind shall—</p> <p>(a) undertake commercial surrogacy, provide commercial surrogacy or its related component procedures or services in any form or run a racket or an organized group to empanel or select surrogate mothers or use individual brokers or intermediaries to arrange for surrogate mothers and for surrogacy procedures at such clinics, laboratories or at any other place;</p>	<p>None</p>	<p>The new clause 28B(4) amended to enhance the fine to be 10 million shillings and imprisonment to 10 years.</p> <p>The new clause 28(1)(g) amended to “conduct education in commercial surrogacy”.</p>

	<p>(b) issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated, any advertisement in any manner regarding commercial surrogacy by any means, scientific or otherwise;</p> <p>(c) abandon or disown or exploit or cause to be abandoned, disowned or exploited in any form, the child or children born through surrogacy;</p> <p>(d) exploit or cause to be exploited the surrogate mother or the child born through surrogacy in any manner whatsoever;</p> <p>(e) sell human embryo or gametes for the purpose of surrogacy and run an agency, a racket or an organization for selling, purchasing or trading in human embryos or gametes for the purpose of surrogacy;</p> <p>(f) import or assist in the importation in any manner of human embryos or human gametes for surrogacy or for surrogacy procedures; and</p> <p>(g) conduct sex education in any form for surrogacy.</p> <p>(2) A person who contravenes subsection (1) commits an offence and shall on conviction be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.</p> <p>(3) For the purposes of this section, the term "advertisement" includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media, in electronic or print form.</p> <p>(4) A registered medical practitioner, fertility expert, embryologist or a person who owns</p>	
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	a fertility clinic or is employed by a fertility clinic, centre or laboratory and renders his or her professional or technical services to or at such a clinic or centre or laboratory including on honorary basis or otherwise, and who contravenes any of the provisions of this section, commits an offence and shall on conviction, be liable to pay a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.		
29	Be amended— (a)in sub-clause (1) by— (i)deleting the words “this Act or any other written law” appearing in paragraph (a) and substituting therefor the words “the Constitution”; (ii)deleting the word “implantation” appearing in paragraph (b) and substituting therefor the word “transfer”. (b)by inserting the following new sub-clause immediately after sub-clause (2)— “(3) Where a dispute arises over matters related to assisted reproductive technology, the disputes may be resolved through mediation, arbitration or court intervention, as may be appropriate.”	None	Amendment (a)- agreed to Amendment (b)- dropped as it is similar to clause 28(6).
30	Be amended— (a)by deleting subclause (2) and substituting therefor the following new clause — “(2) In the event of multiple pregnancies arising out of a surrogacy agreement or where a child born out of a surrogacy agreement has congenital abnormalities all	Be amended — (a)in sub-clause (1) by— (i)deleting the word “commissioning” and substituting therefor the word “intended”; and (ii)inserting the words “where the child is genetically connected to them or subject to a	Committee amendments agreed to subject to replacing the word “intended parents” with “commissioning parents” save for the amendment introducing a new

<p>the children born out of the pregnancy shall be the children of the commissioning parent or commissioning parents and the rights and obligations for all parties shall vest as if the pregnancy had borne only one child or normal child.”</p> <p>(b)in sub-clause (4) by—</p> <p>(i)deleting the words “Notwithstanding the provisions of section 28(7) appearing immediately before the words “the surrogate”;</p> <p>(ii)inserting the following new paragraph immediately after paragraph (c)—</p> <p>“(d)compensation irrespective of the pregnancy outcome”;</p> <p>(c)in sub-clause (5) by—</p> <p>(i)deleting the word “law” appearing immediately after the words “provisions of the law” in paragraph (a) and substituting therefor the word “Constitution”; and</p> <p>(ii)inserting the following new paragraph immediately after paragraph (d)—</p> <p>“(e) be entitled to psychological support during and after the pregnancy, provided by the intended parents”.</p> <p>(d)by inserting the following new sub-clause immediately after sub-clause (7)—</p> <p>“(8) The intending couple or intending parent shall not abandon the child, born out of a surrogacy procedure, whether within Kenya or outside, for any reason including—</p> <p>(a)genetic defect;</p> <p>(b)birth defect;</p> <p>(c)defects developing subsequent to the birth;</p>	<p>court order” immediately after the word “shall”;</p> <p>(b)in sub-clause (2) by deleting the word “commissioning” and substituting therefor the word “intended” wherever it appears;</p> <p>(c)by deleting subclause (3) and substituting therefor the following new subclause—</p> <p>“(3) Where a child is born out of a surrogacy arrangement—</p> <p>(a) where the creation of an embryo was brought about with a sperm and an egg of a couple, or where the couple or intended parent is genetically connected to the child, the couple or intended parent shall be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate; or</p> <p>(b) where the creation of an embryo was brought about with the gametes other than the gamete of a couple or the intended parent or where the couple or intended parent is not genetically connected to the child, the couple or intended parent shall only be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate following a court order;</p> <p>(d)by deleting sub-clauses (4), (5), and (6).</p>	<p>paragraph (d) in sub-clause (4) since sub-clause (4) is adequate as is.</p> <p>Hon. Kaluma’s amendments agreed to and will be moved by the Committee.</p>
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	(d)the sex of a child born out of surrogacy; (e)conception of more than one child; or (f) any other medical condition.		
NEW CLAUSE 30A	The Bill be amended by inserting the following new clause immediately after clause 30—	None	
30A	<p>Payments in relation to surrogacy.</p> <p>30A. (1) The surrogate and the intended parent or parents may include within a surrogacy agreement—</p> <p>(a)a description of permitted costs; (b)a description of discretionary costs; and (c)the length of the payment period in relation to a particular cost.</p> <p>(2) The surrogate may claim permitted costs incurred for any duration of time as agreed with the intended parent or parents.</p> <p>(3) Discretionary costs shall be made during the protected period.</p> <p>(4) An intended parent shall give notice to the Directorate, in accordance with this Act and the regulations made under this section, where the intended parent wants to make a discretionary payment to a surrogate within the protected period.</p> <p>(5) Parties to a surrogate agreement shall not vary the discretionary payment during the protected period unless with the mutual consent of all parties and after proof of consultation with an advocate.</p> <p>(6) Nothing in this Act shall prohibit a party from providing greater protections to a surrogate.</p>	None	The new Clause 30A by the Committee dropped.

	<p>(7)The Cabinet Secretary shall make regulations on the discretionary and permitted payments to be made under a surrogacy agreement.</p> <p>(8) The Cabinet Secretary shall, in making regulations under subsection (7) determine the maximum sum of discretionary costs based on the principles of affordability, non-exploitation of the surrogate and non-exploitation of the intended parents.</p> <p>(9) In this section—  “discretionary payment” means a payment prescribed in regulations made by the Cabinet Secretary and includes the compensatory consideration paid in addition to the permitted payment;  “permitted costs” includes—  (a)the costs of travel and subsistence including accommodation incurred in connection with the surrogate—  (i)meeting with the intended parent or parents; or  (ii)attending medical appointments in connection with surrogacy matters;  (b)the costs of medical care and legal costs incurred in connection with surrogacy matters;  (c)the costs incurred in ensuring the surrogate’s physical, mental and emotional well-being in connection with surrogacy matters including the costs of counselling, physiotherapy, antenatal classes and fitness classes;</p>		
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	<p>(d)the costs of pregnancy-related items for use by the surrogate including maternity clothes;</p> <p>(e)any increase in food costs attributable to the surrogate pregnancy or to the surrogate entering the surrogacy agreement;</p> <p>(f)any costs incurred in securing assistance with the performance of any day-to-day household task that would normally be performed by the surrogate and which she is unable to perform as a result of carrying or giving birth to a child conceived as a result of surrogacy; and</p> <p>(g)the costs of compensating for loss of earnings suffered as a result of the surrogate entering into the surrogacy agreement;</p> <p>“permitted payments” means the payment incurred by the surrogate to cover the costs of the surrogate pregnancy that must be paid by the intended parents except where the surrogate waives that payment; and</p> <p>“protected period” means the period beginning when the surrogacy agreement is entered into and ending when the—</p> <p>(a)surrogate gives birth to a child, at the end of the period of twelve weeks beginning with the day of the birth;</p> <p>(b)surrogacy agreement expires without a child having been conceived, on the expiry of the agreement; or</p> <p>(c)resulting child is stillborn or miscarried at the end of twelve weeks of death.</p>		
31	None	None	-

32	<p>Be amended by—</p> <p>(a) deleting sub-clause (1);</p> <p>(b) inserting the words “except in the case of transfer of own gametes and embryos for personal use” immediately after the word “Kenya” in sub-clause (2);</p> <p>(c) renumbering the existing sub-clause (2) as sub-clause (1) and inserting the following new sub-clause immediately after the renumbered sub-clause (1)—</p> <p>“(2) The sale or transfer of gametes and embryos to any party outside Kenya shall be prohibited except in the case of transfer of a person’s own gametes and embryos for personal use”.</p>	None	Amendment (a)- agreed to Amendment (b)- agreed to Amendment (c)-dropped.
<u>NEW</u> <u>CLAUSES</u> <u>32A AND</u> <u>32B</u>	the Bill be amended by inserting the following new clauses immediately after clause 32—	None	
<u>32A</u>	<p>Offences relating to matching services.</p> <p>32A. (1) A person who provides surrogacy matching services in return for a payment commits an offence and on conviction, shall be liable to pay a fine not exceeding five hundred thousand shillings or to imprisonment to a term not exceeding one year, or to both, and to a fine not exceeding ten million shillings in the case of a body corporate.</p> <p>(2) Despite subsection (1), a person does not commit an offence by making use of services</p>	None	Committee amendments dropped.

	<p>which another person is prohibited by this section from providing.</p> <p>(3) In this section—  “surrogacy matching services” means services provided for purposes of assisting a person who wants to enter into a surrogacy agreement to find a person or persons with whom to enter into the surrogacy agreement.</p>		
<u>32B</u>	<p>Prohibition on certain publications.</p> <p>32B. (1) A person shall not publish, or cause to be published, an advertisement or notice to the effect that a person—  (a) is or may be willing to enter into a surrogacy arrangement;  (b) is seeking another person who is or may be willing to enter into a surrogacy arrangement, to act as a surrogate mother or to arrange a surrogacy arrangement;  (c) is or may be willing to accept any benefit under a surrogacy arrangement for himself or herself;  (d) is or may be willing to accept any benefit under a surrogacy arrangement for another person that is intended or likely to counsel or procure a person to agree to act as a surrogate.</p> <p>(2) A person who contravenes this section commits an offence and on conviction, shall be liable to pay a fine not exceeding five hundred thousand shillings or to</p>	None	Committee amendment (32B) agreed to.

	imprisonment to a term not exceeding one year, or to both, and to a fine not exceeding ten million shillings in the case of a body corporate.		
33	<p>be amended by—</p> <p>(a) inserting the following new paragraph immediately after paragraph (e)— “(f) the destruction or disposal by a registered assisted reproductive technology provider of any gametes or an embryo formed outside the body of a woman.”;</p> <p>(b) renumbering the clause as sub-clause (1);</p> <p>(c) inserting the following new sub-clauses immediately after the re-numbered sub-clause (1)— “(2) The Directorate shall ensure that all information contained in the register is protected and maintained in a confidential manner in accordance with the relevant data protection and privacy laws.</p> <p>(3) The Directorate shall maintain all records, charts, forms, reports, consent letters, agreements.</p> <p>(4) All the documents under this Act shall be preserved for a period of twenty-five years or such period as may be prescribed: provided that where any criminal or other proceedings are instituted against any surrogacy clinic, the records and all other documents of such clinic shall be preserved until the final disposal of such proceedings.</p> <p>(5) All records under subsection (3) and (4) shall, at all reasonable times, be made available for inspection to the appropriate</p>	Be amended by deleting the word “Directorate” and substituting therefor the word “Council”.	Hon. Kaluma’s amendment dropped. Committee amendment agreed to subject to the replacing the word “Directorate” with the word “Council”.

	authority or to any other person authorized by the appropriate authority.”		
34	be amended by deleting the words “twenty-one” appearing in sub-clause (1) and substituting therefor the word “eighteen”.	Be amended— (a)by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”; and (b)in subclause (1) by deleting the word “twenty-one” and substituting therefor the word “twenty-five”.	Hon. Kaluma’s amendment dropped. Committee amendment agreed to subject to the replacing the word “Directorate” with the word “Council”.
35	None	Be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.	Hon. Kaluma’s amendment dropped. Committee to move an amendment replacing the word “Directorate” with the word “Council”.
36	None	Be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.	Hon. Kaluma’s amendment dropped. Committee to move an amendment replacing the word “Directorate” with the word “Council”.
37	None	Be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.	Hon. Kaluma’s amendment dropped. Committee to move an amendment replacing the word “Directorate” with the word “Council”.
38	None	Be amended by deleting the words “Directorate in consultation with the Medical Practitioners and Dentists”.	Hon. Kaluma’s amendment dropped. Committee to move an amendment replacing the word “Directorate” with the word “Council”.
39	None	None	-

40	None	Be amended by deleting the word "Directorate" wherever it appears and substituting therefor the word "Council".	Hon. Kaluma's amendment dropped. Committee to move an amendment replacing the word "Directorate" with the word "Council".
41	None	Be amended by deleting the word "Directorate" wherever it appears and substituting therefor the word "Council".	Hon. Kaluma's amendment dropped. Committee to move an amendment replacing the word "Directorate" with the word "Council".
42	Be amended in sub-clause (1) by— (i) inserting the word "authorized" immediately before the word "member" appearing in paragraph (b); and (ii) deleting the words "unless authorized by the Directorate" appearing in paragraph (d);	Be amended by deleting the word "Directorate" wherever it appears and substituting therefor the word "Council".	Hon. Kaluma's amendment dropped. Committee amendment agreed to subject to the replacing the word "Directorate" with the word "Council".
43	be amended— (a) in sub-clause (1) by inserting the following new paragraphs immediately after paragraph (f)— “(g) the cryo bank makes provision for adequate safety and security for the stored gametes or embryos; (h) the storage tubes are labelled with a unique identifier; (i) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information; (j) there is maintenance of a movement register of storage and retrieval of stored gametes or embryos; and	Be amended — (a) in sub-clause (1) by— (i) deleting the words, "or embryos" appearing in the opening sentence; (ii) deleting paragraph (a), (b), (c) and (d); (iii) deleting the words, "or embryos" appearing in paragraph (e); and (iv) deleting paragraph (f) and substituting therefor the following new paragraph— “(f) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained”.	Kaluma's amendments dropped. Committee amendments adopted with amendments to introduce two new sub-clauses to make provision for conditions for storage of gametes and embryos separately. Resolved to: <ul style="list-style-type: none"> <li>• amend marginal note to add "and embryos"; and</li> <li>• remove the aspect of research in the proposed new sub-clause (2).</li> </ul>

	<p>(k) the cryo bank has adequate facilities to ensure privacy and confidentiality of the owner of the stored gamete or embryo and the identity of the donor.”</p> <p>(b)by deleting sub-clause (2) and substituting therefor the following new sub-clause (2)—</p> <p>“(2) Where a donor or person wishing to store their gamete or embryo in a cryo bank through cryo-preservation, the cryo bank shall only store such gamete or embryo for as long as the owners of the gamete or embryo are alive or for a period not exceeding ten years, and the end of this period the embryo or gamete shall be allowed to perish or be donated to a research organization registered under this Act for research purposes with the consent of the commissioning couple or parent in such manner as may be prescribed”.</p> <p>(c)by inserting the following new sub-clauses immediately after the new sub-clause (2)—</p> <p>“(3)Where a child wishes to store their gametes or embryo pursuant to this Act, a cryo bank shall preserve such embryo or gamete for a period of twenty years.</p> <p>(4) A person wishing to store their gametes or embryo for a longer period than the period specified in subsection (2) and (3) shall make an application to the Directorate to approve longer or further storage of a gamete or embryo.</p>	<p>(b)by deleting sub-clause (2) and substituting therefor the following new sub-clause —</p> <p>“(2) The storage period in respect of gametes shall be a period not exceeding three years”.</p>	
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	<p>(5) The Directorate may approve the longer storage period where it considers that there are reasonable grounds to do grant a longer period including in the case of a chronic illness or any other ground as prescribed in regulations.</p> <p>(6) The Directorate shall, in deciding to approve a longer or further storage period under subsection (5), have regard to the age of the applicant and ensure that the applicant shall not exceed the age of fifty-five years in the proposed extension period.</p> <p>(7) A person may, in case of a pending application to the Directorate under this section, cause or permit gametes or embryos to remain in storage until the Directorate makes a decision on the application.”</p>		
44	None	Be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.	Hon. Kaluma’s amendment dropped. Committee to move an amendment replacing the word “Directorate” with the word “Council”.
45	None	Be amended in sub-clause (2) by deleting the word “Directorate” appearing in paragraph (b) and substituting therefor the word “Council”.	Hon. Kaluma’s amendment dropped. Committee to move an amendment replacing the word “Directorate” with the word “Council”.
46	Be amended in sub-clause (1) by— (a) deleting paragraph (d); (b) deleting paragraph (e) and substituting therefor the following new paragraph —	Be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.	Committee amendments agreed to; Hon. Kaluma’s amendment dropped and the Committee to move a further amendment replacing the

	“(e)that the person responsible has committed a professional malpractice or has been removed from office for contravening the provisions of the Constitution or any other written law”; and (c)inserting the words “or any other law and sentenced to imprisonment for a term exceeding six months” immediately after the word “Act” appearing in paragraph (f).		word “Directorate” with the word “Council”.
47	None	Be amended by deleting the word “Directorate” appearing in sub-clause (1) and substituting therefor the word “Council”.	Hon. Kaluma’s amendment dropped. Committee to move an amendment replacing the word “Directorate” with the word “Council”.
48	None	None	-
49	None	Be amended by deleting the word “Directorate” wherever it appears and substituting therefor the word “Council”.	Committee amendments agreed to; Hon. Kaluma’s amendment dropped and the Committee to move a further amendment replacing the word “Directorate” with the word “Council”.
50	Be amended in sub-clause (1) by inserting the following proviso immediately after paragraph (c)—“and is liable upon conviction, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both”.	Be amended by deleting the words “knowingly or recklessly” appearing in sub-clause (1).	Hon. Kaluma and Committee amendments agreed to. The Committee to move the amendments.
51	None	None	-
<u>NEW</u> <u>CLAUSE</u> <u>51A</u>	The Bill be amended by inserting the following new clause immediately after clause 51—	None	-

	<p>Transitional provisions.</p> <p>51A. (1) Every clinic or cryo bank which conducts assisted reproductive technology, partly or exclusively shall, within a period of sixty days from the date of establishment of the Directorate, apply for licences provided that such clinics and cryo banks shall cease to conduct any assisted reproduction procedures on the expiry of six months from the date of commencement of this Act, unless such clinics and cryo banks have applied for registration.</p> <p>(2) On receipt of the application under subsection (1), the Directorate shall, subject to the provisions of this Act and within a period of thirty days—</p> <p>(a) issue a certificate of registration and a registration number to the applicant; or</p> <p>(b) reject the application in writing with reasons for the rejection.</p>	None	Committee amendments agreed to.
52	<p>be amended —</p> <p>(a) in paragraph (c) by deleting the words “planted in” and substituting therefor the words “transferred into”;</p> <p>(b) in paragraph (g) by inserting the word “informed” immediately after the words “giving of”;</p> <p>(c) in paragraph (h) by deleting the word “children” and substituting therefor the word “embryos”; and</p> <p>(d) by renumbering the existing clause as sub-clause (1) and inserting the following new sub-clause immediately after the renumbered sub-clause (1)—</p>	<p>Be amended by—</p> <p>(a) deleting the opening sentence and substituting therefor the following new opening sentence—  “The Cabinet Secretary, in consultation with the Council, may, with the prior approval of Parliament, make regulations generally for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations —</p> <p>(b) deleting paragraph (a),(b), (c), (d),(f) (g), (h) and (p).</p>	<p>Committee amendments agreed to.</p> <p>Hon. Kaluma’s amendments:</p> <ul style="list-style-type: none"> <li>• Amendment (a)-dropped as it is similar to the Committee’s amendment.</li> <li>• Amendment (b)-amendment to “deleting paragraph (p)” to be moved by the Committee.</li> </ul>

	“(2) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by Parliament.”		
<u>NEW PART X- CONSEQUENTIAL AMENDMENTS-NEW CLAUSES 52A, 52B AND 52C</u>	The Bill be amended by inserting the following new part immediately after Part IX— PART X- CONSEQUENTIAL AMENDMENTS		Committee amendments dropped in light of the adoption of Hon. Kaluma’s amendments to clause 27,28 and 30.
52A	Amendment of section 2 of Cap. 149. 52A. The Births and Deaths Registration Act is amended in section 2 by inserting the following new definitions in the proper alphabetical sequence— “intended parent” has the meaning assigned to it under the Assisted Reproductive Technology Act; “surrogate mother” has the meaning assigned to it under the Assisted Reproductive Technology Act.		
52B	Amendment of section 12 of Cap. 149. 52B. The Births and Deaths Registration Act is amended in section 12 by inserting the words “or by presenting a surrogacy agreement indicating the particulars of the intended father” immediately after the words “some recognized custom”.		
52C	Insertion of a new section into Cap. 149.		

	<p>52C. The Births and Deaths Registration Act is amended by inserting the following new section immediately after section 12— Register of persons born through assisted reproductive technology.</p> <p>12A. The registrar shall cause to be entered in a certificate of birth of a child born out of assisted reproductive technology procedure, the name of the intended parents upon presentation of a valid surrogacy agreement and verification of the agreement by the Directorate established under section 5 of the Assisted Reproductive Technology Act”.</p>		
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