



# Legislative UPDATE

Dear Esteemed Member,

*This Bulletin summarizes some of the key Bills and Motions were set for debate and consideration before Parliament in the week ending 22<sup>nd</sup> February 2019.*

## THE NATIONAL ASSEMBLY



### 1. Health Matters

- ✓ ***Proposal to abolish medical fees in referral hospitals upon death of a patient***

*There was a proposal to come up with a law to do away with the hospital fees of a dead person being that you cannot demand or request money from a dead person, effectively abolishing detaining bodies of dead persons in hospitals as a result of failure to pay for the medical fees.*

*Article 43 of the Constitution provides that everyone has the right to highest attainable standard of health which includes the right to health care services and not to be denied emergency medical treatment. It was directed that the mover of the motion drafts an appropriate Bill capable of implementation.*

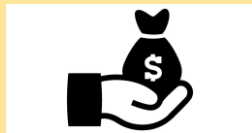
- ✓ ***Petition to Transfer Health Functions back to the National Government***

*The House also received a petition from members of the Kenya Medical Practitioners', Pharmacists and Dentists Union and Boresha Maisha. The petitioners request the National Assembly to enact legislation to provide for operation and regulation of national health referral and training hospitals and the establishment of the Health Service Commission whose mandate shall be to address recruitment, deployment, remuneration amongst other human resource aspects.*

*The Constitution confers upon the national Government the functions relating to the national referral health facilities and health policy respectively. The petitioners pray that the National Assembly enacts legislation:*

- (i) to provide for a framework for transfer and reversal of the health function back to the National Government in terms of Article 187 of the Constitution;*
- (ii) to provide for a legal framework for operations and regulation of national health referral hospitals, in addition to elevation and designation of the existing 11 Level 5 hospitals into national referral and training hospitals;*
- (iii) to ring-fence health funds at the county level; and*
- (iv) to amend other relevant laws as contemplated in Article 252 of the Constitution, so as to assign functions and powers to the proposed Health Service Commission.*

*The Petition was committed to the Departmental Committee on Health for consideration.*



## **2. Coming into force of Section 65 of The Finance Act**

*One of the important provisions of the Finance Act, 2018 is Section 65 which provides that the Central Bank shall provide, in regulations, conditions on deposit or withdrawals by customers in banks and financial institutions.*

*Currently the only directions available from the CBK are in the form of circulars which require customers, for example, to produce certain documents before they can withdrawal certain amounts of money. Due to the public outcry over the unclear stringent rules, it was necessary for the Finance Act to include Section 65 which would make provision for guidelines. The Central Bank of Kenya had 30 days from the date of the coming into force of the Finance Act 2018 (which came into force on 1<sup>st</sup> October, 2018) to come up with the said regulations, and as such the CBK had up until 31<sup>st</sup> October 2018 to comply. They are yet to comply by the 31<sup>st</sup> October 2018 deadline. The Central Bank Governor is set to appear before the house on 26<sup>th</sup> February 2019 to explain why the regulations are not in place.*

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## THE SENATE



### 1) The Energy Bill (National Assembly Bills No.50 of 2017)

The Committee of the Whole had considered Bill and its approval thereof without amendments. The Bill was therefore read a third time and passed.

The Bill seeks to consolidate the laws relating to energy, to provide for National and County Government functions in relation to energy, to provide for the establishment, powers and functions of the energy sector entities; promotion of renewable energy; exploration, recovery and commercial utilization of geothermal energy; regulation of midstream and downstream petroleum and coal activities; regulation, production, supply and use of electricity and other energy forms



### 2) The Petroleum Bill (National Assembly Bills No.48 of 2017)

The Committee of the Whole had considered Bill and its approval thereof without amendments. The Bill was therefore read a third time and passed.

The Bill seeks to provide a framework for the contracting, exploration, development and production of petroleum; cessation of upstream petroleum operations; to give effect to 'relevant articles of the Constitution in so far as they apply to upstream petroleum operations.



### 3) The Irrigation Bill (National Assembly Bills No.46 of 2017)

The Committee of the Whole had considered Bill and its approval thereof without amendments. The Bill was therefore read a third time and passed. The Bill provides for the development, management and regulation of irrigation to support sustainable food security and social economic development in Kenya.



### 4) The Urban Areas and Cities (Amendment) Bill (Senate Bills No.4 of 2017)

Since the Bill originated from the Senate and went to the National Assembly and came back to the Senate and considering

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*National Assembly, voting on the Bill ended at the Committee of the Whole stage and the Bill will proceed directly to the President for assent*



**5) The Public Private Partnerships (Amendment) Bill (National Assembly Bills No.52 of 2017)**

*The Committee of the Whole had considered Bill and its approval thereof without amendments. The Bill was therefore read a third time and passed. The Bill seeks to amend the Public Private Partnerships Act 2013 to recognize County Governments as distinct contracting authorities in public private partnerships projects.*



**6) Consideration of The National Assembly Amendments to The Warehouse Receipts System Bill (Senate Bills No. 10 of 2017)**

*A motion was moved to consider the amendments by the National Assembly to the Warehouse Receipts System Bill (Senate Bills No. 10 of 2017). The motion was seconded, and the Bill was forwarded to the relevant Committee of the House.*



**Realization of Gender Equity in Elective and Appointive**

*Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People's Rights of the Right of Women which are international instruments that are key to promoting women's rights.*

*Consequently, and in accordance with provisions of the Constitution 2010 a motion was tabled, and Senate resolved:*

- 1) That Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,*
- 2) That pursuant to Article 81 of the Constitution both the National and county governments observe the principle of equality and empowers the female gender by increasing the appointive position to at least fifty per cent.*

***BILLS FROM THE EAST AFRICAN LEGISLATIVE ASSEMBLY***

**The Committee on Regional Integration on the East African Community Customs Management (Amendment) (No. 2) Bill, 2018**

*The Bill had earlier been laid on the Table of the House on Tuesday, 27th November 2018. It seeks to amend Section 24(1) of the East African Community (EAC) Customs*

*advance information relating to goods carried by the vessel before departure from the last port of call.*

*The original provision was that the customs officer would make a report on information relating to the goods which are carried by a vessel at any port or any other place allowed by the customs officer. This Bill says that the officers need to report the goods that are being carried to any country from the last port of call. It is important to allow custom administration to receive advance information regarding goods which are being moved across national borders, ahead of arrival of the vessel carrying the goods.*

*This Bill seeks to facilitate the ability of customs administrations to detect high risk consignments in order to deal with counterfeits and terrorism. It is currently not possible to detect the consignments and vessels which have opened the market to the counterfeit goods on the way leading to flooding of markets with counterfeits. The question was deferred till such time as it will appear on the National Assembly Order paper.*

Your comments will be most appreciated - please send to [kepsappd@kepsa.or.ke](mailto:kepsappd@kepsa.or.ke)

Best regards,



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