



## THE SENATE BILL TRACKER AS OF TUESDAY 7<sup>TH</sup> NOVEMBER 2023

BILL	STATUS	KEY HIGHLIGHTS TOUCHING ON BUSINESS	IMPACT ON PRIVATE SECTOR IF PASSED
<b>The Prompt Payment Bill (Senate Bills No. 8 of 2022)</b>	Second read on 12/04/23, 23/05/23, 26/09/23  Bill negated at the Second Reading stage	The Bill seeks to provide for prompt payment for the supply of goods, works or services procured by the national government, county governments and private entities.	<p>This will do away with the issue of pending bills in government and increase liquidity for businesses as they will be paid within a stipulated amount of time.</p> <p>Businesses that wish to enter into a contract for the supply of goods, works or services with a national or county government entity will have to make a declaration to the accounting officer of the entity on any pending payments owed to a small or micro-enterprise. The said declaration shall give details on when the outstanding payment fell due and the reasons for the delay in payment.</p> <p>Aside from interests accruing on late payments, the accounting officer of any procuring entity that fails to pay a supplier will be committing an offence and will be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both.</p>
<b>The Natural Resources (Benefit Sharing) Bill (Senate Bills No. 6 of 2022)</b>	Bill passed by the Senate with amendments and referred to the National Assembly for consideration.	It seeks to establish a system of benefit sharing in natural resource exploitation between resource exploiters, the national government, county governments and local communities.	If the Bill is passed it will increase the cost of doing business by increasing the cost of utilizing natural resources in the country for economic benefit.

BILL	STATUS	KEY HIGHLIGHTS TOUCHING ON BUSINESS	IMPACT ON PRIVATE SECTOR IF PASSED
<b>The County Licensing (Uniform Procedure) Bill (Senate Bills No. 9 of 2022)</b>	Bill at the committee of the whole stage.	It seeks to establish standards and uniform procedures for licensing by county governments subject to the proposed amendments.	There are varied procedures in the forty-seven county governments when applying for licenses which has had a negative impact on the ease of doing business in the counties. This will establish uniform procedures for licensing to ensure certainty in the process and ultimately encourage private sector players to do business in the counties.
<b>The Start-up Bill (Senate Bills No. 14 of 2022)</b>	Bill at the committee of the whole stage.	The Bill seeks to create a framework for a more favourable environment for innovation, so as to encourage growth and sustainable technological development and entrepreneurship. This is meant to attract Kenyan talent and capital.	<p>It will provide for registration of start-ups, and their linkage with private investors and financiers, research institutions, private sector and other government institutions.</p> <p>There shall also be fiscal and non-fiscal support to start-ups in Kenya through incubation facilities.</p> <p>Newly registered entities and those in existence for not more than 7 years will be eligible to be registered for admission into an incubation programme.</p>
<b>The Employment (Amendment) Bill (Senate Bills No. 11 of 2022)</b>	Bill passed by Senate without amendments and referred to the National Assembly for consideration. Read a First time in NA on 17/08/23	The Bill seeks to limit employers from contacting their employees past working hours and penalizes the same.	The Bill will introduce new stringent measures that will curtail the prerogative to manage enterprises by the owners. This will automatically pose a challenge to Industrial Relations in Kenya. The changes proposed negate the very essence of managing enterprises freely to meet the demands and challenges posed by the market.
<b>The Agricultural and Livestock Extension Services Bill (Senate Bills No. 12 of 2022)</b>	Bill at Committee of the whole stage.	The principal object of the Bill is to provide for agricultural and livestock extension which is aimed primarily at improving the knowledge of farmers for development; as such, it has been recognized as a critical component for technology transfer.	This will improve knowledge and skills for farmers which in turn will enhance productivity, access to markets and increase income for farmers.
<b>The Mung Beans Bill (Senate Bills No. 13 of 2022)</b>	Bill at Committee of the whole stage.	The Bill seeks to provide for the development, regulation and promotion of the mung beans sector. It further provides for the support of farmers of mung beans in each county in the production and marketing of their produce and encourages the use of mung beans as a food security item by the National and county governments in their various feeding policies and programs.	It will have a significant impact on food security by increasing production, diversifying crops, reducing dependence on imports and creating economic opportunities.

BILL	STATUS	KEY HIGHLIGHTS TOUCHING ON BUSINESS	IMPACT ON PRIVATE SECTOR IF PASSED
<p><b>The Tea (Amendment) Bill (Senate Bills No. 1 of 2023)</b></p>	<p>Bill at the Second reading stage.</p>	<p>The principal object of the Bill is to provide for establishment of private vocational education and training centres within the counties, which are to be owned and operated by private sector.</p>	<ol style="list-style-type: none"> <li>1. Direct Sales: This will provide multiple marketing avenues for tea and enhance the opportunity for price discovery. There is however a concern, that the stipulation and implementation of a price for direct sales that is above Auction sales will be impractical and will hamper tea marketing, as set out in the table below.</li> <li>2. Value addition: Adoption of this proposal additionally restricts the scope of value addition, and will disincentivize enterprises that have adopted value addition models that result in products packaged in quantities above 10 kilograms. This will be counterproductive to Government efforts to encourage tea value addition.</li> <li>3. Apportionment of Tea Levy: Apportionment of funds should prioritize the institutions whose functions serve entire industry operations, and which will further the development of industry and national economic development.</li> </ol>
<p><b>The County Vocational Education and Training Bill (Senate Bills No. 3 of 2022)</b></p> <p>The name of the Bill was changed to the Vocational Bill (Senate Bills No. 3 of 2022)</p>	<p>Bill passed by the Senate with amendments and referred to the NA for consideration.</p>	<p>The Bill seeks to provide for establishment of private vocational education and training centres within the counties, some of which are to be owned and operated by private sector.</p>	<p>This will ensure TVET agenda remains robust and is able to spur the economy through production of well-trained youth.</p>
<p><b>The Konza Technopolis Bill (Senate Bills No. 2 of 2023)</b></p>	<p>Bill negatived at Second Reading Stage.</p>	<p>It seeks to provide for the establishment of the Konza Technopolis and an Authority to administer the planning, development and management of the Konza Technopolis. This will ensure companies are registered and businesses get licenses immediately on e-platform so that investors don't have a problem wherever they are.</p>	<p>This will ensure companies are registered and businesses get licenses immediately on e-platform so that investors don't have a problem wherever they are.</p>
<p><b>The Learners with Disabilities Bill (Senate Bills No. 4 of 2023)</b></p>	<p>Bill passed by the Senate with amendments and referred back to the NA.</p>	<p>Bill seeks to provide for the education of learners with disabilities; for the conduct of educational institutions for learners with disabilities.</p>	<p>It will promote disability inclusion and enhancement and accessibility of persons with disabilities in all spheres of societal and academic existence.</p>

BILL	STATUS	KEY HIGHLIGHTS TOUCHING ON BUSINESS	IMPACT ON PRIVATE SECTOR IF PASSED
<b>The Climate Change (Amendment) Bill, 2023</b>	Assented into law on 1 <sup>st</sup> September 2023.	The Bill seeks to amend the Climate Change Act, 2016 to provide for the regulation of carbon markets and a framework for carbon trading.	This will ensure that the regulation of carbon markets is stamped in law and is part of Kenya's Climate Action initiatives.
<b>The Coffee Bill (Senate Bills No. 10 of 2023)</b>	Bill at the second reading stage.	The Bill seeks to provide for the regulation, development and promotion of the Coffee industry.	The Bill proposes to reorganize the coffee industry by transitioning the regulatory and commercial roles currently undertaken by the Agriculture and Food Authority to the Coffee Board of Kenya.
<b>The Energy (Amendment) Bill, 2023</b>	First read on 11/10/2023 Bill due for Second Reading on 16th November, 2023	The Bill seeks to provide for transparency in energy purchase agreements through the disclosure of beneficial ownership information.	If passed, the Bill will stamp in law, the requirement to disclose beneficial ownership information in energy purchase agreements.
<b>The Street Vendors (Protection of Livelihood) Bill, 2023</b>	First read on 11/10/2023 Bill due for Second Reading on 16th November, 2023	The Bill seeks to provide a regulatory framework for all counties to guide hawkers and highway vendors and bring sanity to the sector.	If the Bill is passed, the county governments shall provide for the construction and maintenance of vending centres to enable traders to carry out their businesses in a fair, transparent and safe manner.
<b>The Facilities Improvement Financing Bill (Senate Bills No. 43 of 2023)</b>	Bill passed by the Senate with amendments and referred to the NA for consideration.  <b>Bill assented to</b>	The Bill seeks to provide for public health facility improvement financing and management and administration of the improvement financing	With increased public/government funding for health facility improvement, private healthcare providers may face heightened competition. Public health facilities, with their improved infrastructure and services, might draw more patients away from private healthcare providers.
<b>The Primary Health Care Bill (Senate Bills No. 44 of 2023)</b>	Bill passed by the Senate with amendments and referred to the NA for consideration.  <b>Bill assented to</b>	The Bill seeks to provide a framework for the delivery of and access to and management of primary health care	<ol style="list-style-type: none"> <li>1. With a strengthened primary healthcare system, public primary care facilities may become more attractive to patients. This could lead to increased competition for private sector providers, potentially resulting in a decline in patient numbers for private clinics and practitioners.</li> <li>2. <b>Revenue and Profit Reduction:</b> Private primary care providers may see reduced revenues and profits if more patients opt for the improved and often more affordable services in the public sector, which may be subsidized or fully funded by the government.</li> <li>3. <b>Regulatory Compliance and Administrative Burden:</b> The bill may introduce new regulations and administrative requirements for healthcare providers, both public and private. Complying with these regulations can increase the administrative burden and associated costs for private sector entities.</li> </ol>

BILL	STATUS	KEY HIGHLIGHTS TOUCHING ON BUSINESS	IMPACT ON PRIVATE SECTOR IF PASSED
<p><b>The Digital Health Bill (National Assembly Bills No. 57 of 2023)</b></p>	<p>Bill passed by the Senate without amendments and referred back to the NA</p> <p><b>Bill assented to.</b></p>	<p>The bill seeks to provide for the establishment of the Digital Health Agency and to provide a framework for provision of digital health services. It will establish a comprehensive integrated digital health information system, data governance and protection of personal health information, service delivery through digital health interventions, e-waste disposal, and health tourism.</p>	<p>This move away from paper-based storage and retrieval of medical information to digital systems opens the opportunity for new ways of delivering care and a better understanding of the processes and outcomes of the health service. Digital health systems streamline administrative processes such as appointment scheduling, billing, and insurance claims. Digital health systems not only reduce paperwork but also minimize errors, leading to cost savings for healthcare providers and payers. Businesses can benefit from reduced administrative overhead and more efficient operations.</p>
<p><b>The Social Health Insurance Bill (Senate Bills No. 58 of 2023)</b></p>	<p>Bill passed by the Senate without amendments and referred back to the NA.</p> <p><b>Bill assented to</b></p>	<p>The bill seeks to establish the framework for the management of social health insurance and to provide for the establishment of the Social Health Authority. This will repeal the NHIF Act.</p>	<p>The proposed deductions and reforms will lead to increased business costs, high cost of living and unrest in the labour sector.</p>
<p><b>The Real Estate Regulation Bill, 2023</b></p>	<p>Bill due for Second Reading on 18th November, 2023</p>	<p>The Bill seeks to provide for the regulation of the business of negotiating for or otherwise acting in relation to the selling, purchasing or letting of land and buildings. It also seeks to provide for the regulation and registration of real estate agents, land companies and developers and the establishment of the Real Estate Board.</p>	<p>The Bill will provide a general regulatory framework for real estate agents, land companies and developers operating in Kenya. If the bill is passed it may lead to:</p> <p>Billions of Kenyan shillings are lost due to fraud in the real estate sector leaving a trail of disgruntled investors/purchasers with little to no recourse. This is due to lapses in the system to adequately protect consumers from unscrupulous developers who run briefcase companies and lack of implementation of the Estate Agents Act CAP 533.</p> <p>It is laudable that Parliament has taken steps to protect the consumers against such rogue developers and land-selling companies. There are however a few concerns as the Bill seems to go beyond the regulation of developers and extend to the practice of estate agency as a trade.</p>
<p><b>The National Rating Bill, 2022</b></p>	<p>Passed by NA; forwarded to the Senate on 31/10/2023 for consideration. First read on 2/11/2023</p>	<p>Provides for a framework for imposition of rates on land and buildings, and valuation of rateable properties.</p>	<p>Certainty and uniformity in levying of property rates that are due and payable annually helps businesses to plan and forecast and protects them against arbitrary varying of land rates by County governments. A number of counties have been taken to court for such, especially where the property involved is massive like agriculture, retail stores, etc and the resultant difference in rates amounts to tens and hundreds of millions.</p>

## Gazetted Bills due for Tabling in the Senate

<p><b>The Labour Migration Management Bill, 2023</b></p>	<p>To be tabled in the Senate.</p>	<p>To provide for the regulation of private employment agencies and the recruitment of Kenyans to work within and outside Kenya. It also seeks to safeguard the rights and welfare of job seekers and migrant workers and to establish the Kenya Migrant Workers Welfare Fund.</p>	<p>The Bill will provide a framework for the regulation of private employment agencies in Kenya and the recruitment of Kenyans.</p>
--	------------------------------------	--	---

## KEYWORDS AND THEIR DEFINITIONS

### A PARLIAMENTARY COMMITTEE

It means a representative Committee which is a miniature of the main House. It is appointed or elected by the House or nominated by the Speaker. A Committee works under the direction of the Speaker and presents its report to the House or to the Speaker. There are several types of committees as they all deal in specific stipulated areas.

### COMMITTEE OF THE WHOLE (COTW)

This is a Committee composed of all Senators in plenary. At Committee, the Senate considers the Bill clause by clause and may amend the clauses. Any Senator, other than the sponsor of the Bill, who wishes to move an amendment to the Bill, must give written notification of the amendment to the Clerk at least 24 hours before commencement of the sitting at which the amendment is to be considered.

### CONCURRENCE

Where a Bill that is passed by the Senate is required to be submitted to the National Assembly, a certified copy of the Bill is forwarded to the Clerk of the National Assembly together with a Message signed by the Speaker requesting concurrence of the Assembly.

### DIVISION

Division occurs in two stages:

- a) Division 1 which is the separation of the members of the House into two groups, for and against, so the votes can be counted and recorded in Hansard (the full reports (verbatim) of the speeches of Members of Parliament).
- b) Division 2 - One of the parts that a country or state is divided into for the purpose of holding an election.

### FIRST READING

Occurs when a Bill is introduced in Parliament. A Bill is read a first time by the Clerk reading only the title of the Bill and is referred to the relevant Committee.

### MEDIATION COMMITTEE

Whenever the Senate does not agree to any of the amendments proposed by the National Assembly or rejects a Motion that a Bill which originated in the National Assembly, the Speakers of both Houses appoint a Mediation Committee, consisting of an equal number of Senators and Members of the National Assembly to develop a version of the Bill that is agreeable to both Houses.

If the National Assembly agrees with the Bill and does not propose any amendments, the Senate forwards the Bill to the President for assent. If the National Assembly proposes amendments to the Bill, the amendments are submitted to the Senate and are circulated to the Senators.

The amendments are then considered in the Committee of the Whole. The Senate may then pass the Bill by including all the amendments or may reject any or all the amendments. Where an amendment is rejected, the Bill is referred to a mediation committee.

## **PRESIDENTIAL ASSENT**

It means that once a Bill originating in the Senate or National Assembly has been passed by both Houses where applicable, the Speaker refers the concluded Bill to the President for assent.

The President is required to either assent to the Bill or refer the Bill back to the Senate for reconsideration within fourteen (14) days noting any reservations by the President. Where a Bill has been referred back to Parliament by the President, the Parliament may either amend the Bill in light of the President's reservations or pass it a second time without amendments or with amendments that do not fully accommodate the President's reservations. Parliament may either amend the Bill in light of the President's reservations or pass it a second time without amendments or with amendments that do not fully accommodate the President's reservations.

## **SECOND READING**

A stage where the Senators debate the essence and principles of the Bill and give their views on the Bill.

## **THIRD READING**

Once Committee of the whole on a Bill is concluded, the Bill is reported back to the Senate. On adoption of the report on the Bill, the Bill is read a third time. No amendments may be moved at this stage except amending the motion to defer or postpone the third reading of the Bill to a future date.