

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – THIRD SESSION

Tuesday 17th September, 2024

The House Met at the Main Chamber,

County Assembly Building, at 02.30 P.M.

[The Deputy Speaker (Okombo) In the Chair]

PRAYER

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Members, I am giving you time to settle. We are short of quorum by one. I direct that, in line with the provisions of Orders No. 32 (2) of the Kisumu County Assembly Standing Orders, that the quorum bell be rung for the first five minutes.

(The Quorum Bell was rung)

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Members, in the absence of the Majority Whip, I want to ask the Hon Carren Ajwang’ to confirm if we have quorum.

Hon. Ajwang’ (MCA, Kaloleni Shaurimoyo): Thank you Madam Speaker. I can confirm that there is quorum in the House.

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Thank you, Honourable Members; we have the quorum to transact. Clerk, can you take us through the Order of the day?

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Next order!!

STATEMENTS

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Leader of Majority

The Leader of Majority (Hon Ooko, MCA Ahero): Thank you very much Madam Speaker. I rise pursuant to Orders No. 42 (2) (c) that gives me the opportunity to present, on behalf of the County Assembly, a Statement informing the County Assembly of the Business coming before the House on the following week.

Honourable Speaker, this is therefore to bring to the attention of Members and the County Assembly that for the week commencing Wednesday, 18th September, 2024 to Tuesday, 24th September, 2024, the select committee on Assembly House Business at its last meeting approved the following tentative Businesses to appear in the Order Paper as follows:

Wednesday, 18th August, 2024 at 09:00 a.m.,

PAPERS TO BE LAID:

The Leader of Majority will lay on the Table of the County Assembly

(1) Reports of the Appointments committee on the Suitability of Dr. Rose Olayo, Nominee for Appointment to the City Board.

(2) Suitability of Dr. Joyce Okayo for the Appointment to the position of County Executive Committee Member, Water, Environment, Natural Resources and Climate Change.

(3) Reports of the Auditor General on the following:

- i. Jaramogi Oginga Odinga Teaching and Referral Hospital for the year ended 30th June, 2023
- ii. Kisumu County Referral Level IV Hospital for the year ended 30th June, 2023
- iii. Lumumba Sub -County Hospital Level IV for the year ended 30th June, 2023
- iv. Nyakach County Level IV Hospital for the year ended 30th June, 2024
- v. Ahero County Level IV Hospital for the year ended 30th June, 2023
- vi. Muhoroni County Level IV Hospital for the year ended 30th June, 2023
- vii. Chulaimbo County Level IV Hospital for the year ended 30th June, 2023
- viii. Kombewa County Level IV Hospital for the year ended 30th June, 2023

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- ix. Sondu Sub-County Level IV Hospital for the year ended 30th J and 30th June, 2023.
 - x. Nyangande Sub-County Level IV Hospital level for the years ended 30th June, 2022 and 30th June, 2023
 - xi. Masogo Sub-County Level IV Hospital for the years ended 30th June, 2022 and 30th June, 2023.
 - xii. Rabuor Sub-County Level IV Hospital for the years ended 30th June, 2022 and 30th June, 2023
 - xiii. Ober- Kamoth Sub-County Level IV Hospital for the years ended 30th June, 2022 and 30th June, 2023.
 - xiv. Miranga Sub-County Level IV Hospital for the years ended 30th June, 2022 and 30th June, 2023
 - xv. Nyahera Sub-County Level IV Hospital for the years ended 30th June, 2022 and 30th June, 2023.
 - xvi. Ojola Sub-County Level IV Hospital for the years ended 30th June, 2023 and 30th June, 2024.
 - xvii. Nyangoma Sub-County Level IV Hospital for the years ended 30th June, 2022 and 30th June, 2023

Secondly, the Chairperson of the select committee on PICPAC Hon Kennedy Ouko will table the committee report on the Examination of the Auditor General's Report on the Financial Statements of County Executive of Kisumu for the year ended 30th June, 2021.

NOTICES OF MOTION TO BE GIVEN;

The Chairperson of the Select Committee on PICPAC Hon Kennedy Ouko will give a Notice of Motion for the adoption of the Committee report on the Examination of the Auditor General's Report on the Financial Statements of County Executive of Kisumu for the year ended 30th June, 2021.

The Leader of the Majority will give a notice of motion for the adoption of the report of Appointments on;

1. The suitability of Dr. Joyce Okayo for Appointment to the position of County Executive Committee Member, Water, Environment, Natural Resources and Climate Change.
2. The suitability of Dr. Rose Olayo, Nominee for Appointment to the Kisumu City Board.

Wednesday, 18th of August, 2024 at 02:30 p.m.,

STATEMENTS TO BE GIVEN

The Chairperson of the Standing Committee on Administration of Law, Justice, Constitutional Affairs, Good Governance and Security Honourable Moses Ochele will rise, pursuant to Orders

No. 41 (2) (d) to issue a statement regarding the progress of the Petition on Infringement of Fundamental Rights along Dunga Beach.

STATEMENTS TO BE GIVEN:

The MCA for Railways Ward Honourable Samuel Onyango will rise, pursuant to Orders No. 41 (2) (b), to seek a Statement from the Chairperson of the Committee on Labour and Social Services on the matter of the ongoing investigation into allegations of embezzlement of funds by employees of Kisumu County Revenue Board.

SUBSTANTIVE BUSINESS

The Chairperson of the Sectoral Committee on Infrastructure, Energy, and Public Works will move a motion for adoption of the report on the matter of Construction of Ongoing Bridge along Chemelil-Oduwo- Muhoroni Road in Chemelil-Tamu Ward.

Thursday, 19th September, 2024 at 02:30 p.m.

SUBSTANTIVE BUSINESS

1. The Leader of the Majority will move a motion for adoption of the Report of Appointments Committee on the Suitability of Dr. Joyce Okayo for appointment to the position of CEC Member, Water, Environment, Natural Resources and Climate Change.
2. The Leader of the Majority will also move a motion for the adoption of the Report of Appointments Committee on the Suitability of Dr. Rose Olayo, nominee for appointment to the City Board.

Tuesday, 24th September, 2024, at 2.30 p.m,

The Leader of the Majority will issue a statement pursuant to Orders No. 41(2) (c) on the Businesses coming before the County Assembly for the week commencing

Wednesday, 25th September, 2024.

SUBSTANTIVE BUSINESS

The Chairperson of the Select Committee on PIC/PAC will move a motion for the adoption of the Committee Report on the Examination of the Auditor General's Report on the Financial Statements of County Executive of Kisumu for the Year ended 30th June, 2021. Thank you, Hon. Speaker.

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Leader of Majority, please approach the Chair.

(The Leader of Majority approaches the Chair)

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Thank you Leader of Majority,

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Okoyo, what is it?

Hon. Okoyo (MCA, Central Kisumu): Madam Speaker, I rise pursuant to Order No. 42 to give a personal Statement, if you allow me.

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Proceed

Hon. Okoyo (MCA, Central Kisumu): Thank you Madam Speaker. We are surviving in an atmosphere full of politics, and politics being what it is, sometimes we differ because of the ideologies and the different opinions which we have towards different observations.

Madam Speaker, I want to appreciate all the Members of this Third Assembly for what they did to me when I lost my biological mother. Madam Speaker, all the differences which sometimes we see or we witness in this Third Assembly were buried and we came together. And I am happy, Madam Speaker, that almost all the Members in this Honourable House came and condoled with me and my family. Madam Speaker, I cannot take this for granted because I observed something. When you lose a dear one, you really need to see your colleagues, friends, and even relatives next to you and that is exactly what my colleagues and, in general, the staff of Assembly, they came and stood me, they condoled with me, and, Madam Speaker, that's the reason I have decided to give this personal Statement just to appreciate my friends, my colleagues, and the staff of the Third Assembly. May I say that may God bless the Third Assembly and let us continue with the same spirit. Thank you.

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Thank you, Hon. Okoyo. Next order!!

MOTION

ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON DELEGATED COUNTY LEGISLATION ON THE PENDING REGULATIONS

PRESENTED BY;

HON. MARIAM ABEID, NOMINATED MEMBER

(CHAIRPERSON, SELECT COMMITTEE ON DELEGATED COUNTY LEGISLATION)

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Chairperson, Committee on Delegated County Legislation, Honourable Abeid.

Hon. Abeid (Nominated Member): Thank you Madam Speaker and Honourable Member. Madam Speaker and Honourable Members, pursuant to Standing orders 192(2) and section 11 (1) of Statutory Instrument Act,

Statutory Instruments Act Section 11 (1) *Every Cabinet Secretary responsible for a regulation-making authority shall within seven (7) sitting days after the publication of a statutory instrument, ensure that a copy of the statutory instrument is transmitted to the responsible Clerk for tabling before the relevant House of Parliament,*

“whenever a statutory instrument is submitted to the county Assembly pursuant to the Constitution, any law or these Standing Orders, the Statutory Instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chairperson of the relevant sectoral committee, or any other member and shall thereafter stand referred to the committee on Delegated County Legislation”

12. Referral to the Committee

(1) Every statutory instrument issued, made or established after the commencement of this Act shall upon tabling before the respective House of Parliament stand referred to the Committee or any other committee that may be established for the purpose of reviewing and scrutinizing statutory instruments

Madam Speaker and Honourable Members, the Select Committee on Delegated County Legislation in its one of the sitting on Thursday, 6th June, 2024 and another sitting on 8th August, 2024 scrutinized the requests and invitations, made observations and findings and outlined recommendations on the same for adoption by this House a report of the committee on status of pending Regulations, for determination and approval.

Committee Mandate

Madam Speaker and Honourable Members, the Delegated County Legislation committee is established pursuant to the County Assembly of Kisumu Standing Order no. 192 (3) and is mandated to consider in respect of any Statutory instrument whether it

- a) Is in accord with the provisions of the constitution, the Act pursuant to which it is made or other relevant written law
- b) Infringes on fundamental rights and freedoms of the public
- c) Contains a matter which in the opinion of the committee be dealt with in an Act of the County Assembly
- d) Contains imposition of taxation
- e) Directly or indirectly bars the jurisdiction of the courts
- f) Gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power
- g) Involves expenditure from the County Revenue Fund or other public revenues

- h) Is defective in its drafting or for any reason the form or purport of the Statutory Instrument calls for any elucidation
- i) Appears to make some unusual or unexpected use of the powers conferred by the constitution or the Act pursuant to which it is made
- j) Appears to have had unjustifiable delay in its publication or laying before County Assembly
- k) Makes rights, liberties or obligations unduly depend upon non-reviewable decisions
- l) Makes rights, liberties, or obligations unduly dependent upon insufficiently defined administrative powers.
- m) Inappropriately delegates legislative powers
- n) Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation
- o) Appears for any reason to infringe on the rule of law
- p) Inadequately subjects the exercise of legislative power to County Assembly scrutiny, and
- q) Accords to any other reasons that the committee considers fit to examine.

Committee Membership

Madam Speaker and Honourable Members, as currently constituted, the select committee on Delegated County Legislation is composed as follows;

COMMITTEE MEMBERS

- | | | |
|-------------------------|---|------------------|
| 1. Hon. Mariam Abeid | - | Chairperson |
| 2. Hon. Peter Obaso | - | Vice chairperson |
| 3. Hon. Moses Ochele | - | Member |
| 4. Hon. Mickey Ochieng | - | Member |
| 5. Hon. James Omollo | - | Member |
| 6. Hon. Henrietta Bodo | - | Member |
| 7. Hon. Samuel Dede | - | Member |
| 8. Hon. Kennedy Ajwang' | - | Member |
| 9. Hon. Carolyne Opar | - | Member |

SECRETARIAT

- | | | |
|------------------------|---|---------------------------|
| 1. Pst David Ochieng | - | Senior Clerk Assistant |
| 2. Ms. Brenda Chasi | - | Committee clerk assistant |
| 3. Ms. Jacklyne Otieno | - | Hansard Reporter |
| 4. Mrs. Baraza Rose | - | Sergeant At Arm |

Committee Sitting

Madam Speaker and Honourable Members, the committee held several sittings and scrutinized the letters that they have written in the 2nd session of third Assembly. It then extended an invitation to the County Secretary and County Attorney, vide letter reference no. CAK/CLK/DCL/2023(41) and CAK/CLK/DCL/2023(40) dated 26th September, 2023. Further invitation was done to the two vide Ref No. CAK/CLK/DCL/2023 (52)(53) to appear before the committee on Monday 20th November 2023, who came with his team to elaborate on the concerns of the committee concerning the pending Regulations.

Acknowledgement

Madam Speaker and Honourable Members, the Committee wishes to acknowledge and appreciate the Office of the Speaker and the Office of the Clerk for the support accorded to them to ensure success of the exercise for the committee to deliver its mandate.

The committee also recognizes the effort, commitment and passion the members demonstrated in the exercise as well as the secretariat.

Therefore, on behalf of the Committee, Mr. Speaker, I now have the honor and pleasure to present the Report of the Committee on Delegated County Legislation on the Status Report over pending Regulations.

SCRUTINY, FINDINGS, OBSERVATION

Scrutiny and Legal Framework

Madam Speaker and Honourable Members, the committee has the jurisdictional powers conferred to it as that of Court of Law. In analyzing any Regulation referred to it by the House, First of all, in accordance with Statutory Instruments Act, the committee has to establish whether due process was followed in the establishment as outlined in the Statutory Instruments Act. Secondly, the committee has to establish any other consideration as outlined in section 13 of Statutory Instruments Act. Thirdly, the committee was guided by the principles of good governance and the rule of Law.

Madam Speaker and Honourable Members, the committee examined the extent to which the Executive has delayed and to some extent do operationalize the unremitted Regulations to the Assembly contrary to section 13 of the Statutory Instrument Act.

Object of the Statutory Instrument Act

That provide a comprehensive regime for the making, scrutiny, publication and operation of statutory instruments by—

- (a) requiring regulation-making authorities to undertake appropriate consultation before making statutory instruments;*
- (b) requiring high standards in the drafting of statutory instruments to promote their legal effectiveness, clarity and intelligibility to anticipated users;*
- (c) improving public access to statutory instruments;*
- (d) establishing improved mechanisms for parliamentary scrutiny of statutory instruments; and*
- (e) establishing mechanisms to ensure that statutory instruments are periodically reviewed and, if they no longer have a continuing purpose, repealed.*

1) Relevant considerations

Madam Speaker and Honourable Members, the Committee shall, in carrying out its scrutiny of any statutory instrument or published Bill be guided by the principles of good governance, rule of law and shall in particular consider whether the statutory instrument—

- a) is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other written law;
- b) infringes on fundamental rights and freedoms of the public;
- c) contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
- d) contains imposition of taxation;
- e) directly or indirectly bars the jurisdiction of the Courts;
- f) gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- g) involves expenditure from the Consolidated Fund or other public revenues;
- h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
- i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- j) appears to have had unjustifiable delay in its publication or laying before Parliament;
- k) makes rights, liberties or obligations unduly dependent upon nonreviewable decisions;
- l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- m) inappropriately delegates legislative powers;
- n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) appears for any reason to infringe on the rule of law;
- p) *inadequately subjects the exercise of legislative power to parliamentary scrutiny; and*
- q) *accords to any other reason that the Committee considers fit to examine.*

Observations

Madam Speaker and Honourable Members, the Committee after scrutiny observed the following:

1. Late submission of the Regulations.

Section 11(1) of the Statutory Instruments Act, which states “Every Cabinet Secretary responsible for a regulation-making authority shall within seven (7) sitting days after the publication of a statutory instrument, ensure that a copy of the statutory instrument is transmitted to the responsible Clerk for tabling before the relevant House of Parliament”. However, the Executive have delayed not honoring their submission through County Attorney vide letter dated 12th June, 2023 which they committed to revert no later than 31st August 2023 by bringing 11 Regulations. However, so far they have managed to bring only two Regulations.

2. Automatic revocation of Statutory instruments pursuant to section 21(1)(2)(3) of the Statutory Instrument Act, 2013 where some need to be repealed or a regulation is made exempting them from expiry.

Findings

Madam Speaker and Honourable Members, the committee had the following findings to bring to the attention of the members:

- I. Some Regulations are being operationalized illegally.
Statutory Instruments Act 2023 section 11(4) If a copy of a statutory instrument that is required to be laid before the relevant House of Parliament is not so laid in accordance with this section, the statutory instrument shall cease to have effect immediately after the last day for it to be so laid but without prejudice to any act done under the statutory instrument before it became void.

General Recommendations and Conclusion**Recommendation**

Madam Speaker and Honourable Members, the committee therefore in exercise of the donated powers has to seek further guidance from the House on the way forward.

THAT, The House to summon all the County Executive Committee Members to appear before the whole House to explain why they have delayed to submit the Regulations.

Conclusion

Madam Speaker and Honourable Members, it is therefore my pleasure on behalf of the Delegated County Legislation Committee present this report and hereby urge the Hon members of this House to adopt this report with the recommendations contained herein. Thank you Madam Speaker.

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Chairperson, Honourable Abeid, you have to have a seconder.

Hon. Abeid (Nominated Member): Apologies Madam Speaker, my seconder would be my Vice-Chairperson, Honourable Obaso.

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Peter Obaso.

Hon. Obaso (Nominated Member): Thank you, Madam Speaker. Madam Speaker, I second. Madam Speaker, in this County, there have been Laws that are in operation without Regulation. So, it is our appeal that the Laws that are in operation without Regulations, the concerned County Executive Committee Members should be summoned and brought here to explain why these Laws are in operation without Regulations.

Secondly, when Laws are operational without Regulations, then it places the County in an awkward position where anyone or a member of the public can exploit these avenues and maybe take the County to Court because these Laws are in operation without Regulation. So, I just want to urge this House to support this report and the recommendations be followed to the latter. Thank you.

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Honourable Members, now that the motion on the adoption of the Report on the Status on pending Regulations by the Select Committee on Delegated County Legislations has been moved and seconded. I want to propose a question of debate and I declare the motion of the adoption of this report open for discussion. Honourable Members, I believe we all have the report, or don't we?

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Yes, Honourable Chief Whip.

The Chief Whip (Hon. Kanga, MCA, Market/Milimani): Thank you Madam Speaker. How I wish I could debate on this report as presented by the Chairperson, Madam Miriam Abeid. But Madam Speaker, the report that was posted on our WhatsApp group on the 04th of September, 2024, if you look at the document, the wordings are not very clear. So, reading it becomes very difficult. Although, Madam Speaker, as a ranking Member of this House, who understands the powers and the work of the Delegated County Legislation Committee, Madam Speaker, I wish to add my voice to the report as read by the Chairperson.

First, the report is well-versed, but it lacks consequence as a fact that Madam Chairperson and the Committee has not indicated to us several Acts which came into place in the First Assembly, which regulations were not been made to their effect in the Second Assembly, and in the Third Assembly. Madam Speaker, the reason why I am saying this is because these Acts were accented to by the successive Governors or the Governors who is in the office today. But, it will be prudent for this House Committee to indicate to us the Acts, so that when we are submitting

them to the County Executive, they are taken to the relevant departments, because we have seven departments, ten of them which several acts have been enacted by the successive Assemblies.

So, by the Assembly recommending that regulations be made, without clear indication, by mentioning the relevant departments, which are supposed to implement these Acts, Madam Speaker, I believe that this House Committee has left s gaps in their report. So, Honourable Miriam Abed and the Committee Members, you have done a good work, going by what you have read to us, but this is something which should be taken with the seriousness it deserves. That is because, we have had several court cases, whereby the courts declare that the Act which was used lacks merit, and this is because the regulations thereto were not made. So, Madam Speaker, as an Assembly, we should cure that.

Madam Speaker, I believe that the terminologies the advocates use in the court law, we should cure that lacuna, which has been used against the County Government of Kisumu. So, Madam Speaker, as an Assembly and also as a Member of the County Assembly, I want to plead with this House Committee to dig deep, and give a chronology of several Acts which lacks regulations, so that the relevant departments are able to bring regulations to this Assembly, so that we dispense with these issues of the report which has been brought to this House. Otherwise, Madam Speaker, I support the motion with those indications. Thank you, Madam Speaker.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, my position today as the Chair does not allow me to debate, but as the Speaker of the day, I am allowed to give advice. Honourable Members, I just want to refer us to Annexes 4, 5, and 6. I believe we all love the reports. Honourable Members, Annex 4 is an account of regulations sought by the Assembly. Through a letter dated 3rd August 2023, requiring the County Executive to submit 10 regulations by 30th August 2023.

Honourable Members, Annex 5 is a response from the office of the Governor, stating that the regulations requested were being worked on by the legal team, and would be submitted not later than 31st August 2023. Honourable Members, Annex 5 is a reminder of the submissions of all regulations to the Assembly as was requested, meaning by 25th May 2024, these regulations had not been submitted. So, Honourable Members, I expected this House Committee to give this House an account of the status of all these pending regulations, which I believe is lacking in the report. Honourable Members, I do not want to debate, and I leave it to Members to decide whether you are going to adopt the report or not. So based on the three annexes, Honourable Members, I leave it to you. Thank you. Are there honourable Members who still want to debate on the report?

The Deputy Speaker (Hon Okombo, MCA Manyatta “B”): Yes, Honourable Sammy Onyango.

Hon. Onyango (MCA, Railways): Thank you, Madam Speaker. I rise to comment on the report. First, I thought that the mover was reading a Statement and this is because it was too short; no

direction, no full stop and even no comma. Madam Speaker, let us get serious with our job. We are not here to rubber stamp failures of other House Committees.

Madam Speaker, the report is too short, and it is like they are crying. They want help. That they invited the County Executive Committee Members who refused to honour their invitation, and now this House Committee needs our help. Madam Speaker, the only way we can help them is by supporting this report, they go back and start afresh so that they can bring the right one. Madam Speaker, I oppose.

The Deputy Speaker (Hon. Okombo MCA, Manyatta “B”): Yes, Honourable Billy.

Hon. Odhiambo (MCA, Kobura): Thank you Madam Speaker. I want to really appreciate this House Committee for at least attempting to do some work. Madam Speaker, we are representatives of Kisumu County. When I was young, I grew up in an environment where we believed that people from the lakeside delivered greatly. So, it is my hope that this House Committee will go back and give us a very good report so that that can reflect in our country.

Madam Speaker, you realize that the Acts that we pass as an Assembly, they are meant to run the system and make work easier and even better for people of Kisumu County. Therefore, in passing the Acts, the regulations are very important because the Acts behave like a vehicle. Then going forward, the regulations are like the headlights and the steering and even the pedals that push the vehicle forward. Without these Acts, you will realize that you can go forward, but the challenges will be there. So it is my belief that, that such a report being brought forward to us to discuss as Members, this House Committee would have at least discussed every Act that has no regulation there and at least should have dug in and even given us something to show us why. If this is not done, we might have challenges, at least to give us some deep understanding of why the regulations are important. So Madam Speaker, I still believe that the Report that we have been given is half-baked and we can, as Members, give them time to at least give this Honorable House a very detailed Report that matches the caliber of this House. Thank you Madam Speaker, I strongly reject the Report.

(The Chief Whip rises on a Point of Order)

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Yes Honourable Chief Whip, what is it?

The Majority Whip (Hon. Kanga, MCA Market Milimani): Madam Speaker, you gave us a head start. It is a Point of Information Madam Speaker, over the head start you gave us while you were addressing us over this matter. Madam Speaker, the Office of the Clerk wrote to the County Secretary and the Office of the County Attorney highlighting several issues on the legislations far from 2016 which are lacking regulations. Madam Speaker, there are several legislations, like the County Public Participation Act, the County Alcoholic Drinks Control Act, the County

Education Act 2015, the County Trade Licensing Act 2015, the County Trade Fund 2015, the County Disasters Emergency 2014, the County Health Act 2019, the County Roads Act 2019, the County Law Enforcement Act 2019 and the County Climate Change Act 2020.

Madam Speaker, if you look at the response of the Office of the Governor, it clearly indicates that these Acts have been in operation without the necessary procedure because there are no regulations and they have indicated that we kindly bear with them as they endeavor to conclude this exercise. We expect to revert not later than 31st August, 2023 Madam Speaker.

Madam Speaker, to date, the Office of the Governor has not responded to the request of this House Committee as indicated by the Clerk on behalf of the Committee. Madam Speaker, I believe we are in September and the Office of the Governor indicated that they will respond by August 2023, Madam Speaker and we are in September 2024. Yet, the Chair of this House Committee is giving a report to this House minus response which was communicated by the Office of the Governor by August Madam Speaker. I think we are missing something somewhere. Madam Speaker...

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Hon. Kanga...

The Chief Whip (Hon. Kanga, MCA, Market/Milimani): ...and in your guidance, I believe you should give a guidance because you indicated to us Annex 4 and that Annex 4, the Committee is giving us a report minus the response which was supposed to be given by 31st August, 2023, Madam Speaker, and it is lacking in the report of the Committee. Madam Speaker, I beg that you give guidance. Thank you.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Thank you Honourable Seth Kanga. It is worth noting that the response was communicated on 31st August, 2023. We are in the month of September 2024. So a year later, no response is forthcoming. Honourable Members, I throw it back to you.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Yes Hon. Benny Oiko Pete.

Hon. Oiko (MCA, Kabonyo/Kanyagwal): Madam Speaker, it is very recommendable when the Whip gives direction and condemns the Government, that it is something that the Government has failed. Do we now blame this House Committee? It is only that this House Committee was short of explanation of the way things are. But Madam Speaker...

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Correction, Hon. Benny Oiko Pete. The Whip does not serve the Government; the Whip serves the people of Kisumu County, and specifically the people of Kisumu Town, Market/Milimani. Thank you.

Hon. Oiko (MCA, Kabonyo/Kanyagwal): Madam Speaker, the title Whip is for Kisumu County. He is an MCA for Market, Milimani. But as a Whip in this Assembly, it serves the people of

Kisumu County and that is the Government of Kisumu County. Madam Speaker, this matter is from last year...

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Yes, Honourable Whip.

The Chief Whip (Hon. Kanga, MCA Market/Milimani): Madam Speaker, my work as a Whip of the Government in this House is to whip Members to vote on issues procedurally, taking into consideration matters of the law and procedures. Madam Speaker, if the procedures are not followed to the latter, then even if we pass reports or motions in this House, then they will be taken to court, and the County Government will be defeated. So, mine as a Whip is just to ensure that things are done procedurally. There is no harm in taking back the report and doing it in a procedural manner, Hon. Oiko Pete. Thank you, Madam Speaker.

Hon. Oiko (MCA, Kabonyo/Kanyagwal): Madam Speaker, what the Whip is saying is exactly what I have said.

(Hon. Obaso rises on a Point of Order)

Hon. Obaso (Nominated Member): Point of Order.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Order!! Honourable Oiko Pete, Honourable Peter Obaso is on a Point of Order. Hon. Obaso, which Order are you standing on?

Hon. Obaso (Nominated Member): (silent)

The Deputy Speaker (Hon. Okombo, MCA, Manyatta B): Which Order are you citing Hon. Peter Obaso?

Hon. Obaso (Nominated Member): Madam Speaker, Orders No. 42...

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Orders 42 states?

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Hon. Obaso, please resume your seat Hon. Peter Obaso.

(Laughter)

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Oiko Pete please continue.

Hon. Oiko (MCA, Kabonyo/Kanyagwal): Thank you Madam Speaker. We have been given a picture that so many Acts have been passed, and there are no regulations. The Office of the Governor has admitted to that and we have also been informed that the County Government has been taken to court, and because the regulations are not there to support the acts, the Government has lost cases.

Madam Speaker, this is very crucial and it is not a matter we should take lightly. When the matter started last year, and these regulations, these Acts were passed five, ten years down the line, Madam Speaker, this gives us the picture that there is something wrong with the legal office of Kisumu County Government. This is because once the departments have brought the Acts here, the Assembly has passed, it is the same department that should go back to the Office of the County Attorney, so that the regulations are formulated. If we cannot do that as a government, then the question now comes, what is the legal office doing in this government? We need to take the Legal Office to task, because it is giving us a bad picture when we lose some cases, which we ought not to have lost if the regulations are there. Madam Speaker, losing cases is expensive for a government. And, the other time you were discussing here, the legal pending bill in this government.

So, we have some other weaknesses, which if we do not address, the legal pending bill will still keep on rising. So, it is a matter that this House should not take lightly. Because, if the response from the Governor's Office is what it is, what can this House Committee do? Madam Speaker, the Honourable Speaker, Mr. Elisha Oraro, has advised us here from time to time, that when a department has become reluctant, we simply report that they are reluctant, this is what they said, and then it is looked into, and we find other avenues how to handle the matter. Madam Speaker, this is not a matter we should not take lightly because we must protect the image of our government. Let the Legal Department of the Assembly advise us on the next cause of action we should take so that we should also be not be seen that the committee is not doing its work. I so submit.

(The Chief Whip rises on a Point of Order)

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Yes the Honourable Chief Whip

The Majority Whip (Hon. Kanga, MCA, Market/Milimani): Madam Speaker, another Point of Order is based on your guidance Madam Speaker, because there are several issues Madam Speaker on this issue. Madam Speaker, I want to bring your attention that the Clerk of this County Assembly did a reminder on 25th August to the County Secretary and the County Attorney on submission of all regulations as per the statutory instrument Madam Speaker, and the report read to us by the Chair of this House Committee did not indicate to us whether that the County Executive communicated their replies to this House Committee on the reminder of the letter written by the Clerk on 25th.

Madam Speaker, this House Committee went further and invited the County Attorney. In the report the Chairperson did not indicate to us whether the County Attorney responded to their invitation and how did he respond Madam Speaker. Those issues are lacking in the report Madam Speaker.

Madam Speaker, the reason why as to I am stating this is that the County Executive is taking the work of this House Committee for granted and this is because we are yet as the House to see the response of the County Executive based on those letters Madam Speaker.

Madam Speaker, if they fail to respond to these invitations Mr. Speaker, did the committee do a summons because now the summons compels the County Attorney together with the County Secretary to appear before this House Committee. If not so then they are liable to go and explain to the courts why they are not able to respond to these issues which are legal in nature touching on the lives and the residents as far as legislative issues of this county is concerned Madam Speaker.

Madam Speaker, based on those submissions, I plead with you to give this House a clear direction so that we don't put this county on a on a dangerous situation where all the legislations passed with this Assembly will be declared null and void by the courts. I don't blame this House Committee but this House Committee did its work but somebody somewhere the County Executive. Madam Speaker, as the Whip of the government, it is my work to ensure that members of the County Executive obey lawful invitations by this House Madam Speaker so that when we are defending the government we defend the government based on objectives as per requisitions by the relevant committees in the House. Madam Speaker that is the information I was conveying around. Thank you.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Thank you Honourable Chief Whip.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Hon Kennedy Ouko.

Hon. Ouko (MCA, West Kisumu): Thank you Madam Speaker. First, I thank this House Committee for at least making an effort because we are atleast somewhere where we can understand what transpired.

Madam Speaker, we can see the frustrations this House Committee went through. We can also see that this House Committee equally tried to bring a report to the House that is very nice. But Madam Speaker, an Act must be reinforced by a regulation.

Madam Speaker, it is very important that we have a regulation. Without a regulation we will incur several expenses which are unwarranted. I now understand why the Attorney who was once there in the office had to face certain challenges. But we have a new person in that office whom we believe can deliver on several issues.

Madam Speaker, I would like to ask your office so that we refer back the report to this House Committee so that it be completed and we have a comprehensive report brought back to this House. Madam Speaker, regulations are made and you know even if they are proposed by the

County Executive they have to pass through the law which is a requirement of the House and that is now our work.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): The Honourable Chairperson Delegated Legislation please approach the Chair.

(Hon. Abeid consults with the Speaker)

Hon. Ouko (MCA, West Kisumu): Madam Speaker, many times we have had problems with the invites of the County Executive and many times they have failed to appear before the House Committees. I believe that there are provisions in law which is very clear. We invite three times then the fourth time we issue a summons and that is now on the hand of the House.

Madam Speaker, it is advisable we get back, we refer back the Motion to this House Committee so that it is fine-tuned. Madam Speaker, I beg to disagree. Thank you.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, the Speaker has been asked to offer guidance as far as the report is concerned. It is true the concerns of the Members are very valid that the report ought to have given details on the full status of all the regulations which are being sought. There are a number of Acts that have been passed in this Assembly and are assented to by the Governor that are operational but without regulations.

Honourable Members, following the request from the office of the Clerk and reminder sent this ought to have been captured by this House Committee informing us the state whether the office of the Governor has worked on the regulations or not and if they have not then what is their response.

Honourable Members, there is a request that we give this House Committee time to go and include the missing components of the report. Honourable Members, I just want to refer us to the procedures of the House that a Motion once moved and seconded has to be debated upon and a vote has to be taken and withdrawing this Motion at this point is almost impossible but that particular clause is not provided for under the Standing Orders. So, the Standing Order number one would apply but since the House has ceased the Motion because it has been moved seconded and the debate is ongoing then it now becomes a property of the House.

So, it is upon this House that has a voice whether they want to allow the Honourable Chairperson to go back and work on the report or proceed either carry the report on the negative or affirmative. I want to allow the Honourable Chairperson to go back and work on the report, or proceed, either carry the report on the negative or affirmative. I want to give this opportunity to the Chairperson to state her case.

Hon. Abeid (Nominated Member): Thank you Madam Speaker and Honourable Members. As Chairperson of the County Delegated Legislation Committee, I have taken the recommendations

with the seriousness they warrant. I would also like to remind Members of this House, beyond the political noise, that a report doesn't need to be a hundred pages, as Hon. Samuel Onyango suggested, in order to meet its obligations.

Madam Speaker, the main purpose of this report was to address two or three key issues. Firstly, in simple terms, we have repeatedly and officially requested the County Executive Committee Members responsible for the eleven pending regulations—some of which are already in operation illegally—to engage with us so that we can find a way to regularize their status. Unfortunately, these requests have been ignored. It has been more than one year and I heard you ask us about the letter that they sent.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Order, Honourable Chairperson. Switch off your microphone. Honourable Chair, you are in the process of replying. However, your initial request was for more time to incorporate what you're now addressing into the report and then present it back to the House. I'm not sure if you're still seeking that, as the House needs to grant leave for this request. This matter is now beyond Standing Order Number One since it is already before the House. Procedurally, once a motion is moved and seconded, it must be debated and a vote taken.

The House cannot grant you permission to withdraw this report. You must formally request the House to allow you withdraw the report, and this request must be seconded. If the House agrees, then permission is granted; if not, the report will proceed to a vote. Please go directly to your point and stop replying.

Hon. Abeid (Nominated Member): Madam Speaker, I wasn't replying, I apologize for any confusion caused. I was getting to the point directly. I simply wanted to clarify that we did put effort into this report. The issue lies with the County Executive's lack of respect for this House, not with our House Committee. That said and done, I respectfully request for more time to allow the County Executive work on the eleven regulations that are currently operating illegally in the county, and bring the updated report back to this House. However, it's important to note that the Executive's disregard for this House is not our fault.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Chairperson of the Committee on Delegated County Legislations, you have yet to clearly state your case and specify what request you are making of the House.

Hon. Abeid (Nominated Member): Madam Speaker, we respectfully request that this House grants this House Committee more time to gather and present the eleven missing regulations we have raised concerns about, or alternatively, to submit a more comprehensive report. We are

asking for your understanding and support in this matter. I therefore ask my Vice-Chairperson, Hon. Obaso, to second.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Obaso, can you convince the House that you have a valid reason as to why the House should grant you leave to withdraw?

Hon. Obaso (Nominated Member): Thank you, Madam Speaker. I fully agree with my Chairperson and respectfully ask the House to grant this House Committee time to allow us to revise the report, attach the missing pieces, and bring it back for consideration. Madam Speaker, these regulations are crucial to the functioning of this county, and without their legal implementation, the county is placed in a difficult situation. Therefore, I urge the House to support our request so that the report can be completed properly. Thank you. I second.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, the Committee on County Legislation initially requested to withdraw their report. However, the request made by the Chairperson and the Deputy lacks clarity, as they are asking for an extension of time rather than a formal withdrawal.

Honourable Members, given this, their request doesn't provide sufficient grounds for the House to grant what this House Committee is seeking. Therefore, Honourable Members, I move that the debate continues, and the motion proceeds as scheduled.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Yes, Honourable Dede.

Hon. Dede (MCA, Kisumu North): Thank you, Madam Speaker. Since the Chairperson has requested more time, is there no support for this request?

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Dede, you don't debate on a directive. I gave the Chairperson permission to plead with the House to withdraw their report, but instead she was asking for extension of time. So, Honourable Dede, if you want to debate on the report, kindly do, but not on the directive.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Yes, Honourable Olima.

Hon. Olima (MCA, South West Nyakach): Thank you, Madam Speaker. Looking at the mood of the House, I want to call the mover to reply.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Abeid.

Hon. Abeid (Nominated Member): Thank you Madam Speaker. I believe that we don't have much to add other than be grateful for giving us the opportunity to go back and bring a more comprehensive report. Thank you.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, a motion on the adoption of the report on the Status of Pending Regulations by the Select Committee on Delegated County Legislation has been moved, seconded, and debated upon. It is now my pleasure to put a question of adoption on the adoption of the same.

(Question put and negatived)

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, the report is therefore rejected and that this report is referred back to this House Committee to report back to the House within a period of 14 days.

The Majority Whip (Hon. Kanga, MCA, Market/Milimani): Madam Speaker, the law is very clear.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, the law is clear. I wanted to twist the hand of the law, but I thank you, Honourable Members, for being proactive. This report can only come back after six months. So, Honourable Chairperson, you have more than enough time to go and work on your report. Thank you.

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Next order!!

ADJOURNMENT

The Deputy Speaker (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, there being no any other business to transact, this House stands adjourned until tomorrow Wednesday, 18th September, 2024 at 09.00 a.m.

(House rose at 3.55 p.m.)

Addendum

Hansard Team

<i>Zablon Otiende</i>	-	<i>Senior Hansard Reporter (Acting Editor)</i>
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