

Approved for tabling in the house.

REPUBLIC OF KENYA



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TWELFTH PARLIAMENT
(SIXTH SESSION)

THE NATIONAL ASSEMBLY

**FIFTH REPORT
OF
THE PROCEDURE & HOUSE RULES
COMMITTEE ON AMENDMENTS
TO THE STANDING ORDERS**

(Submitted pursuant to Standing Order 264)

Clerk's Chambers
National Assembly
Parliament Buildings
NAIROBI

THE NATIONAL ASSEMBLY	
DATE: 26 MAY 2022	DAY: Thursday
TABLED BY:	Hon. Moses Cheboi, CBS
CLERK AT THE TABLE:	Gertrude Chebet

MP
May 2022

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PREFACE

Hon. Speaker,

The Procedure and House Rules Committee is established under Standing Order 208 to among other things, consider proposed amendments to the National Assembly Standing Orders. Further, **Standing Order 263(1)** stipulates that '*A Member may, with the support of at least fifty other Members, request the Procedure and House Rules Committee to consider an amendment to the Standing Orders,*' while **Standing Order 264** provides that '*at least once in every term of Parliament, the Procedure and House Rules Committee shall review the Standing Orders and make a report to the House recommending the Standing Orders, if any, to be amended.*'

Composition of the Committee

The Committee currently comprises of the following Members –

1. **The Hon. Justin B.N. Muturi, EGH, MP – Speaker of the National Assembly (Chairperson)**
2. The Hon. Moses Cheboi, CBS, MP – Deputy Speaker
3. The Hon. Roselinda Soipan, CBS, MP – 1st Chairperson of Committees
4. The Hon. Patrick Mariru, MP – 2nd Chairperson of Committees
5. The Hon. Jessica Mbalu, CBS, MP – 3rd Chairperson of Committees
6. The Hon. Christopher Omulele, MP – 4th Chairperson of Committees
7. The Hon. John Olago Aluoch, CBS, MP
8. The Hon. Richard Maore Maoka, CBS, MP
9. The Hon. David Njuguna Kiaraho, MP
10. The Hon. Tom Joseph Kajwang', MP
11. The Hon. Benson Orori Momanyi, MP
12. The Hon. Abdul Rahim Dawood, MP
13. The Hon. Zuleikha Hassan, MP

14. The Hon. Janet Jepkemboi Sitienei, MP
15. The Hon. Gathoni Wamuchomba, HSC, MP
16. The Hon. Beatrice Adagala, MP
17. The Hon. (Dr.) Pamela Ochieng Awuor, MP
18. The Hon. Alexander Kimutai Kosgey, MP
19. The Hon. (Dr.) Robert Pukose, MP
20. The Hon. Gladys Boss Shollei, CBS, MP
21. The Hon. Safia Sheikh Adan, MP

Committee Secretariat

The Committee Secretariat is composed of the following technical staff –

- | | |
|-----------------------|--|
| 1. Mrs. Lucy Wanjohi | Principal Clerk Assistant I/HoD - IHOD |
| 2. Mr. Mainah Wanjiku | Senior Clerk Assistant |
| 3. Mr. Ronald Walala | Legal Counsel |
| 4. Ms. Getrude Chebet | Second Clerk Assistant |

To facilitate the work of the Procedure and House Rules Committee in discharging this mandate, the Clerk of the National Assembly established a Taskforce to undertake the review and report back to the Committee. The terms of reference for the Taskforce were –

1. Take views from the leadership of the House, Committee Chairpersons and other Members on areas of possible amendment;
2. Collate views from Directorates of the National Assembly, and other stakeholders including from staff of the National Assembly;
3. Collaborate with Senate Staff, where necessary, on areas of joint concern;
4. Regularly update the Deputy Clerks and the Clerk on the progress;

5. Regularly report to, and take instructions and guidance from, the Procedure and House Rules Committee on the review process;
6. Compile a report and schedule of proposed amendments to the Standing Orders and recommend any other review of the rules of procedure of the House; and
7. Any other incidental matters as may be assigned by the undersigned or the Procedure and House Rules Committee.

Composition of the Taskforce

The Taskforce comprised the following officers –

- | | | |
|-----|---------------------------|--|
| 1. | Mr. Samuel Njoroge | Director, Legislative & Procedural Services – Team Leader |
| 2. | Mr. Peter Chemweno | Director, Departmental Committees |
| 3. | Mr. Kipkemoi Arap Kirui | D/Director, Legislative & Procedural Services |
| 4. | Mr. Nicholas Emején | D/Director, Audit, Approp. & Other Select Cmnts. |
| 5. | Ms. Jeniffer Ndetto | Deputy Director, Legal Services |
| 6. | Mr. Joash Kosiba | Principal Fiscal Analyst |
| 7. | Mr. Noah Too | Principal Clerk Assistant |
| 8. | Ms. Susan Maritim | Principal Clerk Assistant |
| 9. | Mr. Mainah Wanjiku | Senior Clerk Assistant/PHRC |
| 10. | Mr. Ronald Walala | Legal Counsel/PHRC |
| 11. | Mr. Victor Weke | Senior Clerk Assistant |
| 12. | Dr. Donald Manyala | Research Officer |
| 13. | Ms. Getrude Chebet | Second Clerk Assistant/PHRC |

Proposals reviewed

The Taskforce received proposals to amend the Standing Orders from Committees, individual Members, Directorates and Departments in the National Assembly as follows –

- a) **The Constitutional Implementation Oversight Committee (CIOC)** on *raising of points of order; lapsing and re-introduction of Bills; proposed expediting of the processing of Bills and proposed incorporation of the CIOC in the Standing Orders.*
- b) The Member for Garissa Township, **the Hon. Aden Duale, EGH, MP** regarding, amongst other proposals, *the place of Omnibus Bills in the legislative process; proposed strengthening of leadership offices; the consideration of Constitution of Kenya Amendment Bills; and handling of Members' personal data;*
- c) **The Parliamentary Caucus on Business & Economy** regarding the *handling of treaties by Parliament.*
- d) **The Hon. Patrick Musimba, MP** on the *proposed introduction of a parallel debating chamber and recognition of independent Members in the definition of a parliamentary party.*
- e) **The Hon. John Kiarie, MP** on, among other things, *proposed strengthening of leadership offices; the consideration of Constitution of Kenya Amendment Bills; and handling of Members' personal data.*
- f) **The Hon. Zuleikha Hassan, MP** on the access to the Chamber by infants being cared for by a Member;
- g) **The Hon. Caleb Kositany, MP** to amend sitting hours of the House;
- h) **The Hon. Millie Odhiambo, MP** on, among other areas, proposed ranking of Members and recognition of caucuses;
- i) The Speaker's Communication of 9th June 2020 on *Entitlement of Slots in Select Committees and Discharge of Members from Committees;* and

- j) Varied proposals from various Directorates and Departments: Legislative & Procedural Services, Departmental Committee Services, Legal Services, and Parliamentary Budget Office.

Notably, whilst a call for submission of views was made to the public by way of newspaper adverts, none was received as at the conclusion of this exercise.

The Taskforce also considered amendments initiated internally on procedural developments and other issues noted during the life of the current Parliament, and made appropriate recommendations as part of the proposals by Directorates/Departments.

Upon completion of review of the Standing Orders, the Taskforce presented its Report to the Procedure and House Rules Committee on 24th May 2022 for consideration by the Committee.

The Committee comprehensively reviewed the proposed Taskforce report and proposed text and made observations, additions and refinements, before adopting the report for consideration by the House.

Appended to this report is the text of the proposed amendments to the Standing Orders (First Schedule), a Communication from the Chair requesting for submissions to the Procedure and House Rules Committee submissions from Members and Directorates and minutes of the Committee on the consideration of the proposed amendments.

I wish to thank the office of the Clerk for the support accorded to the Committee in facilitating its work. It is therefore my pleasure to present this Report for consideration and adoption by the House.



.....
THE HON. MOSES CHEBOI, CBS, MP
DEPUTY SPEAKER OF THE NATIONAL ASSEMBLY
For: CHAIRPERSON, PROCEDURE & HOUSE RULES COMMITTEE

Thursday, May 26, 2022

CHAPTER 1: INTRODUCTION

1.1 Background

1. Article 124 of the Constitution of Kenya permits each House of Parliament to “... make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.” In parliamentary practice, Standing Orders, also known as rules of procedure, regulate the proceedings of a legislative body and govern the procedures to be adopted in carrying out the mandate of that body. By practice, Standing Orders do not lapse at the end of a session or a term of Parliament and thus the continuing or “standing” nature of these rules. Standing Orders remain in force until the House suspends, changes or repeals them, through amendment or review.
2. As parliamentary environments keep evolving, regular reviews of the Standing Orders ensure that the House and its committees continue to operate with efficacy and relevance adapting to the circumstance of the time. Continuous review and improvement allow for refinement of procedures and keeps pace with emerging trends. It is observed that in most parliamentary jurisdictions, reviews of the Standing Orders are conventional considering the ever changing landscape in political governance. Nonetheless, the changes may be necessitated by not only the prevailing political organization of the country but also socio-economic realities of the time.
3. An example of this was experienced in 2020 when the National Assembly realigned its procedures in response to the COVID-19 global pandemic. The House amended its Standing Orders to include a new Part on the *Conduct of Proceedings in Exceptional Circumstances*. The amendment sought to provide for the conduct of plenary and Committee sitting during periods when physical sittings of the House or Committees may not be possible including *declaration*

of an epidemic, pandemic, extreme natural phenomena, pestilence or an act of terrorism.

4. Standing Orders are typically derived from four main sources –

- (a) **Parliamentary practice**, being matters established over the years that do not require to be formally written down or stated;
- (b) **General rules** of conduct of business that are altered from time to time by the House;
- (c) **Rulings** from the Chair and precedents, which give guidance on new or emerging areas of procedure; and
- (d) **Constitutional provisions and Statute** governing how the House conducts proceedings on particular/specific matters e.g. the legislative process, financial procedures, approval of appointment of persons to State offices, etc.

1.2 Current Review of the Standing Orders

- 5. Pursuant to Standing Orders 262 and 263, the rules of procedure may be amended at any time as may be proposed by the Procedure & House Rules Committee, or by the initiative of a Member supported by at least fifty other Members.
- 6. Additionally, Standing Order 264 provides for the periodic review of the Standing Orders by the Procedure & House Rules Committee at least once every term of Parliament. The current comprehensive termly review of the National Assembly Standing Orders is the sixth such review since Kenya gained independence in 1963. In order to appreciate the significance of the process, below is a summary of the previous review exercises.

1.3 Previous reviews of the Standing Orders in the Parliament of Kenya

1.3.1 Pre-1966 and the First comprehensive Review of the Standing Orders

7. The first comprehensive review of the Standing Orders of the House was made in 1966 following the amendment of the Constitution to abolish the Senate thereby transitioning Parliament from bicameralism to unicameralism. The Senate was abolished with its membership being combined with that of the House of Representatives to form a unicameral legislature, the National Assembly. Notably, the 1963 Constitution had established a Senate that consisted of 41 senators elected for six years, with one-third of the members retiring every two years.
8. With this change, there was need to comprehensively review the parliamentary procedures to reflect the new setup. That review focused mainly on deleting procedures relating to the relations between the two Houses and incorporating new procedures to entrench unicameralism. At the time, the Standing Orders booklet, which was red in colour, was barely 15 pages. Despite the size, available literature and *Hansard* proceedings of the House at the time indicate that it was not easy for most Members to recall or understand most of the rules of procedure.

1.3.2 The 7th Parliament: 2nd comprehensive review

9. The period between 1966 and 1991 saw minimal amendments to the rules of procedure. However in 1991, following the repeal of the Article 2A of the Constitution of Kenya to re-entrench multi-party politics in the country, a second major review was undertaken. The amendment of the Standing Orders sought to facilitate transaction of business in the House bearing in mind the multi-party arrangement that arose.

10. The offices of the Leader of Official Opposition, Opposition Whips and Opposition or “back-bench days” were some of the new provisions that were incorporated just before the commencement of the 7th Parliament in 1992. The composition and chairing of the Public Accounts Committee (PAC) was also changed to recognize the evolving times. This was the Second comprehensive review of the Standing Orders of the National Assembly.
11. With the continued clamour for constitutional reforms, mostly from within Parliament, further amendments were moved in a bid to allow more space for heated debate in the Chamber, invigorate the Committee system, recognize political party caucuses and provide facilities to parties and indeed, to Parliament. In 1997, towards the end of the 7th Parliament, amendments were made to the Standing Orders to establish the Public Investments Committee and Departmental Committees as we know them today. Notably, the Committee on Estimates was also deleted from the Standing Orders on 10th November, 1997 as it was felt that the Committee was “meddling too much” into the national budgeting process, which was essentially a prerogative of the Executive.

1.3.3 The 8th Parliament: A more responsive Parliament

12. In 1998, during the 8th Parliament, the clamour for constitutional reforms had reached its peak and saw renewed vigour for review of the Standing Orders. The rules were seen as more inhibitive than facilitative for Members and therefore requiring a makeover. This view was notably shared across the political segments in the House. The focus of the proposed changes was mostly on demystifying Parliament, allowing gender responsive rules, invigorating Committees, opening up Chamber proceedings and Committees to the public, including allowing live broadcast of proceedings and institutionalizing multi-partyism in all Parliamentary aspects.

13. At that time, there was a general expectation that a new Constitution would be in place before the end of the term of the 8th Parliament. In this regard, the much needed comprehensive review of the rules of procedure of the House was deferred to await enactment of a new Constitution. Nonetheless, by the time the House was dissolved on 25th October 2002, a new constitution had not be promulgated and this derailed the intended comprehensive review of the Standing Orders. A draft report on the review status was compiled capturing the memoranda and proposals that had been received from Members, political parties, the public and officers of the House.

1.3.4 The 9th Parliament - The unconcluded 3rd comprehensive review

14. The Draft Report of the 8th Parliament became the primary document for the third comprehensive review of the Standing Orders that had commenced in the 8th Parliament. On June 20, 2006, a sub-committee of the Standing Orders led by the then Deputy Speaker, Hon. David Musila and comprising of Hon. Paul Muite, the late Hon. Otieno K'ajwang, the late Sen. Mutula Kilonzo, Hon. Nyagah Wambora, nominated Members Hon. Njoki Ndung'u and Hon. Esther Keino was established. The sub-committee received memoranda from individual Members as well as political parties through the then Government Whip, Hon. Norman Nyagah and the Opposition Party Whip Hon. Justin Muturi. Notably, this was the first time that proposed amendments were initiated and driven by Members of the House and not by the Executive, as had been the practice.
15. The most notable amendment during this review was inclusion of the process of introducing Bills by private Members. This was done by removing the cumbersome requirement of **a motion seeking leave** to introduce a Bill. Other areas included in the review were –

- (a) *recognition of political party caucuses;*
- (b) *allowing recall of the House during recess by the Opposition, so long as they could garner signatures of a majority of the Members;*
- (c) *opening up of Committees and the House to the public;*
- (d) *recognition of visiting dignitaries and allowing them to address the House;*
- (e) *petitioning of Parliament, which was seldom done those days;*
- (f) *insertion of Kiswahili prayer in the rules of procedure;*
- (g) *introduction of requests for statements to Ministers;*
- (h) *limitation of speaking time on debate on Bills, committee reports, and sessional papers which were hitherto unlimited; and*
- (i) *modest changes on the budgeting process to increase the role of Parliament.*

16. It was also during this review that simple language was adopted. For instance, from “*that Mr. Speaker doth leave the chair*” to “*that Mr. Speaker does leave the chair*” or “*mutatis mutandis*” to “*with necessary modification*” etc. Further, the language was made more gender-responsive, from use of such phrases as “**he**” to “**he or she**” or “Member”. Lady Members were also allowed to carry handbags ‘*of reasonable size*’, into the House for the first time.
17. There was also the agreement to change the motto of the House, which was inscribed at the top of the bar of the House and read as “***For the welfare of society and the just government of men***”. In the end, the version of Standing Orders advanced in the 9th Parliament was lauded as the Standing Orders of the 21st Century. The Report had however not been tabled by the time the House was dissolved on 22nd October 2007. The Third comprehensive review of the Standing Orders was therefore not concluded until the subsequent Parliament.

1.3.5 The 10th Parliament – Conclusion of the 3rd Comprehensive Review

18. The amendment of the Standing Orders in the 10th Parliament was mainly meant to incorporate the amendment of the Constitution to include the coalition government and the subsequent National Accord.
19. Under the leadership of the then Speaker, Hon. Kenneth Marende, in its first meeting of May 30, 2008, a six-Member sub-committee comprising of the then Deputy Speaker and led by the Speaker's Panel Members; Hons. Ekwee Ethuro, Gitobu Imanyara and Prof. Margaret Kamar (who was later replaced by Hon. Joyce Laboso), was mandated to consider progress made by the 9th Parliament on the review of the Standing Orders, receive submissions and submit a report to the Committee on the review of the Standing Orders.
20. The Committee enriched the report prepared in the 9th Parliament by including rules on parliamentary broadcasting, and opening up House plenary sessions and Committees to the public. Also included was the recognition of Whips and electronic means of tabling Papers in the House, amongst other measures. There was also the introduction of *Prime Minister's Time* where the Prime Minister would make a Statement or respond to questions put to him relating to matters of Government policy or the general performance of the Government and its agencies.
21. Following the inclusion of Party Whips, the membership of the House Business Committee (HBC) expanded to twenty-one from eleven. Additionally, the quorum of the Public Investments Committee (PIC) and Public Accounts Committee (PAC) was reduced from 5 to 3 Members. Six additional Committees were also formed as follows –
 - (a) *Local Authorities and Funds Accounts Committee (LAFAC);*
 - (b) *Budget Committee;*
 - (c) *Committee on Delegated Legislation;*

- (d) *Committee on Implementation;*
- (e) *Committee on Equal Opportunity; and*
- (f) *Library Committee.*

22. The number of Departmental Committees was increased from 8 to 12 by splitting some of the Committees with wider mandates such as *Health, Housing, Labour, Sports and Social Welfare* which was, at the time, one Committee. The eventual adoption of the report on 8th December 2010 marked the conclusion of the 3rd Comprehensive review of the Standing Orders.

1.3.6 The 10th Parliament – The new Constitution and the 4th comprehensive review

23. Following the promulgation of the Constitution of Kenya in 2010, there was need to realign the Standing Orders to the new Government organization. This marked the 4th comprehensive review of the Standing Orders. The process mainly focused on actionable aspects of the Constitution that gave new roles to Parliament as opposed to new ways of doing things. The Procedure & House Rules Committee jointly with the Committee of Experts analyzed the impact of the proposed Constitution on the workings of Parliament with particular focus on, among other things –

- (a) *the process of vetting and removal of persons;*
- (b) *inclusion of the Committee on Appointments;*
- (c) *update of the budgeting process;*
- (d) *inclusion of provisions reflective of bicameralism; and*
- (e) *phasing out of Question Time, etc.*

24. It is worth noting that the process was mostly initiated by officers as opposed to the Members themselves. At the time, the House seemed more engrossed in other equally important business such as the enactment of over 210 pieces of legislation, which had to be passed within the first 2 years following the

promulgation of the new Constitution, and the vetting of persons to be appointed to new offices, such as the Chief Justice, the Attorney General, the Director of Public Prosecutions, the Auditor-General, the Controller of Budget, and Members of various Constitutional Commissions.

25. There was an evident rush to conclude the review of the Standing Orders of the National Assembly and the making of new rules for the incoming Senate. The report was tabled in January 2013, a few weeks before elections, concluding the 4th Comprehensive Review of the Standing Orders.

1.3.7 The 11th Parliament - the 5th comprehensive review

26. At the time of review in the 11th Parliament, the Standing Orders were viewed by some Members, and indeed by some courts of law, as failing to fully actualize certain provisions of the Constitution. Some of the areas cited included provisions relating to—
- (a) *the financial procedures;*
 - (b) *the legislative interface between the two Houses of Parliament; and*
 - (c) *the processes of removal of persons from office, including the removal of the Speaker.*
27. In addition, various Members and other stakeholders **had proposed** a review of the following aspects —
- (a) *discharge of Members from Committees;*
 - (b) *expansion of the role of Departmental Committees to include the determination of “Money-Bill” aspects under Article 114 of the Constitution;*
 - (c) *introduction of a parallel debating chamber for conducting Second Reading of Bills;*

(d) amendments to the Standing Orders of both Houses regarding media related activities in the precincts of Parliament; and

(e) enhanced public participation in the legislative process and Parliamentary business.

28. The report of the review of the Standing Orders was adopted in 2017 and saw the inclusion of a number of the amendments mostly those seeking to align with the Constitution and the some of the areas noted above.

1.3.8 The 12th Parliament - the 6th comprehensive review

29. The current review process may be said to be 6th comprehensive review of the National Assembly Standing Orders. The process commenced in August 2021 following the establishment of the Taskforce on the review on the rules of procedures. The Taskforce worked under the guidance of the Procedure and House Rules Committee to collate views from Committees, Members and other stakeholders on possible areas of amendment. The proposed areas of amendment are explained below.
30. Proposed amendments of particular mention during this review were –
- (a) The increase of the Chairperson's Panel from four (4) to six (6);
 - (b) Increase of the period for Committees to report of Bills from the current twenty-one days to thirty days;
 - (c) The provision of two (2) Vice-Chairpersons for every Committee;
 - (d) The splitting of the Public Investment Committee to create two (2) additional Committees with a sunset provision;
 - (e) The creation of additional Departmental Committees to increase specialization and efficiency; and
 - (f) The creation of a Committee to examine matters relating to public debt and privatization.

CHAPTER 2: OUTLINE OF PROPOSED AMENDMENTS TO THE STANDING ORDERS

1.1 Introduction

1. On 23rd September 2021, the Speaker issued a Communication notifying Committees, individual Members as well as members of public of the review process that was being undertaken by the Procedure and House Committee on the National Assembly Standing Orders. The stakeholders were to proffer amendment and/or their views of such areas as –

- (a) The system of governance and bicameral nature of our legislature;
- (b) The subsisting committee system focusing on areas such as size, composition, operations, effectiveness and efficiency of our Committees;
- (c) Areas of improvement in the general parliamentary oversight focusing on any aspects or areas that may not have received due attention, including but not limited to our budget processes and oversight mechanisms over the national debt;
- (d) The place of and mechanisms for consideration of the reports submitted to the House by Cabinet Secretaries under Article 153(4)(b) of the Constitution;
- (e) The place of Constitutional Commissions & Independent Offices and their place in our rules of procedure including the consideration of their reports submitted to the House pursuant to the provisions of Article 254 of the Constitution; and,
- (f) Consideration of the various Speaker's rulings, as well as judicial decisions that have a bearing on the procedures of the House.

2. Submissions on proposed amendments were received from –

- (i) The Constitutional Implementation Committee (CIOC);

- (ii) The Member for Garissa Township, the Hon. Aden Duale, EGH, MP;
- (iii) The Parliamentary Caucus on Business & Economy;
- (iv) The Hon. Patrick Musimba, MP on the introduction of a parallel debating chamber and recognition of independent Members in the definition of a parliamentary party;
- (v) The Member for Dagoretti South, the Hon. John Kiarie, MP;
- (vi) The Member for Kwale County, the Hon. Zuleikha Hassan, MP;
- (vii) The Member for Soy, the Hon. Caleb Kositany, MP;
- (viii) The Member for Suba North, the Hon. Millie Odhiambo, MP;
- (ix) The Speaker's Communication of 9th June 2020 on *Entitlement of Slots in Select Committees and Discharge of Members from Committees*; and
- (x) Proposals from various Directorates and Departments: Legislative & Procedural Services; Departmental Committee Services; Audit, Appropriation & Other Select Committees; Legal Services; and the Parliamentary Budget Office.

3. The Committee considered the collated submissions on the amendments proposed to the Standing Orders and made corresponding recommendations and proposed text of amendments. The final proposed text is attached to this report as the *First Schedule*.

1.2 PROPOSALS BY THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE

4. The Constitutional Implementation Oversight Committee (CIOC) submitted its proposed amendments to the National Assembly Standing Orders on 19th October 2021. In the submissions, the Committee proposed the following amendments –

a) Standing Order 83: Points of Order

5. That Standing Order 83 (Points of Order) be amended to require that a Member wishing to raise a point of order should rise in his/her place rather than using the electronic delegate system currently in use. In the present scenario, a Member raises a point of order by pressing the intervention button to catch the '*Speaker's eye.*'

Justification: The CIOC observed that this would ensure openness and transparency and avail Members who have queries on procedure an opportunity to have their say.

Observation: The Committee observed that while Standing Order 83 provides for the raising of points of order by Members, the practice of rising to catch the Speaker's eye was in place in the Parliaments preceding the 11th Parliament. This was however discontinued with the installation of the current electronic chamber systems. In the UK, 'catching the Speaker's eye describes the way in which MPs let the Speaker know that they want to speak during a debate or question time. A Member attracts the attention of the Speaker by standing up briefly every time the next Member is about to be called and may only speak if called to do so by the Speaker.

Recommendation: This has been a parliamentary practice that was changed only recently in the Parliament of Kenya with the adoption of the electronic delegate units. The Committee proposed that Standing Order 83 be amended by inserting the words "by rising in the Member's place" immediately after the words "Any Member may" in paragraph (1).

b) Standing Order 141: Lapse and Re-introduction of Bills

6. That Standing Order 141 (Lapse and Re-introduction of Bills) be amended to require that a Bill, the consideration of which has not been concluded at the end of the **term of Parliament** should not lapse but may be taken over by a Committee of the House or any Member at the stage at which the Bill had reached, with the written consent of the original mover, and subject to its republication.

Observation: The Committee noted that this may not be practicable in the existing legislative environment. However, to ensure continuity of Bills, the Committee proposed that should a Member be re-elected and the Member had sponsored a Bill which had been read a First time, the Bill ought to be exempted from pre-publication scrutiny.

Recommendation: the Committee proposed that that **Standing Order 114A** be amended to allow for this exemption.

c) Incorporation of the CIOC in the Standing Orders

The Committee proposed that the Constitutional Implementation Oversight Committee be incorporated in the Standing Orders. The Committee proposed the following text –

Constitutional Implementation Oversight Committee

212E. (1) The Constitutional Implementation Oversight Committee established under section 4 of the Sixth Schedule to the Constitution shall consist of a Chairperson and not more than twenty-two other Members.

(2) In the membership of the Constitutional Implementation Oversight Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(3) The Committee shall be responsible for the following functions in addition to those listed in section 4 of the sixth schedule to the Constitution:

- (a) Monitoring and Implementation of the Constitution;
- (b) Consideration of Bills to amend the Constitution after first reading and in accordance with Standing Orders 127.
- (c) Oversee the day to day operations of Constitutional Commissions including but limited to the above:
 - (i) *Investigate, inquire into, and report to all matters relating to the mandate, management, activities, administration, operations and estimates of the Constitutional Commissions*
 - (ii) *Investigate, inquire into all matters relating to the Constitutional Commissions, as they deem necessary and may be referred to them by the House;*
 - (iii) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve:*
 - (iv) *Consider reports of the Constitutional Commissions submitted to the House pursuant to article 254;*
 - (v) *Examine any questions by Members on a matter within its Mandate.*

Observation: By practice, only the Committees established by the Standing Orders are contained therein. Any other committee established by statute or other ways with express mandates are not contained in the Standing

Orders. Examples include the Committee on Powers & Privileges and the National Government Constituencies Development Fund Committee.

Recommendation: The Committee declined the proposal since the Constitutional Implementation Oversight Committee is derived from the Constitution and admitting the request by the Committee would amount to amending the Constitution through the Standing Orders.

d) Expediting of the Processing of Bills

7. The Committee proposed that the processing of Bills in the House be expedited so that Bills prepared by Members can be presented in the House for consideration without delay. In this regard, the Committee proposes that –

- (i) The Standing Orders be amended to reduce the bureaucracy involved at **pre-publication stage** and that after the Speaker has approved a Bill for publication, the Bill should be sent for **publication** within seven (7) days and be introduced for **first reading** on the next sitting day after maturity of the Bill;

Observation: This is already in practice except for Bills concerning counties. The Committee therefore proposed that the matter be left to practice.

- (ii) After first reading, the Bill should be introduced for **second reading within 30 days** of tabling of the Committee report or in accordance with Standing Order 127(4).

Observation: Whereas Standing Order 127 provides for a period within which a Committee ought to have submitted a report of a Bill, the scheduling of the commencement of debate on Second reading is consequent on other circumstances in the House. It is for this reason that

the House Business Committee is mandated to schedule business for the House. In carrying out this mandate, the HBC takes into consideration a myriad of prevailing factors to determine business of the House for any particular day. The Committee therefore proposed that this practice be retained as is.

- (iii) **Standing Order 114** be amended to require a Committee to which a legislative proposal is committed for pre-publication scrutiny to consider the legislative proposal and submit its report to the Speaker within 30 days.

Observation: This proposal was adopted as it had also been proposed by other stakeholders.

Recommendation: That Standing Order 114 be amended to reflect this increased period.

1.3 PROPOSALS BY THE PARLIAMENTARY CAUCUS ON ECONOMY & BUSINESS

8. By way of a letter dated 17th January 2022, the Chairperson of the Parliamentary Caucus on Economy & Business, the Hon. Jude Njomo, MP submitted a memorandum seeking the establishment a select committee on ratification of economic treaties. The Parliamentary Caucus observed that the Treaty Making and Ratification Act, 2012 is the applicable law that gives effect to the provisions of Article 2 (6) of the Constitution. Further, that section 6 & 7 of the Act requires the State to take into account the regulatory impact of any proposed treaty and the Cabinet Secretary to submit to the Cabinet the treaty, and memorandum outlining –

- (a) *The national interests which may be affected by the ratification of the treaty;*
- (b) *Financial implications;*
- (c) *Implications on matters relating to counties; and;*

(d) The views of the people on the ratification of the treaty.

9. The Caucus observed that this process, especially on public participation, is largely ignored. In the consideration of Treaties by Parliament, the Caucus has identified the following as shortcomings in the process –

- a) The Cabinet Secretary does not, from the onset, conduct research to establish the national interests which may be affected by a treaty before negotiation of the Treaty commences,
- b) Parliament is not involved in the treaty negotiation processes against the practice in other jurisdictions where the Executive works closely with the legislature in the initial stages,
- c) Parliament only gets involved after a treaty has been signed by the Cabinet Secretary or when it is about to be signed.
- d) Parliament debates the treaty but has no powers to amend it or propose amendments.

10. In order to address the identified shortcomings, the Caucus proposed the **establishment of a select committee on ratification of economic treaties**. This will help to address the above identified shortcomings and ensure the oversight of the Executive in carrying out the following issues –

- (i) policy coherence for development;*
- (ii) the sovereign right to regulate in the public interest;*
- (iii) inclusivity (including broad public consultation);*
- (iv) transparency;*
- (v) sustainable development and suitability;*
- (vi) economic impact assessment;*
- (vii) social and environmental impact assessment;*
- (viii) respect for regional integration goals and strategies;*

- (ix) *respect for the Constitution and all international and regional agreements and instruments (including soft law) that Kenya has either ratified or signaled its support, and other related matters.*

11. The Caucus noted that there is no clear manner of involvement of Parliament in the treaty making process including the manner of entering reservations.

Observation: The Committee noted that –

- (i) whereas the Treaty Making and Ratification Act, 2012 makes reference to the Standing Orders, there was no procedure provided for in the Standing Orders for consideration of treaties and hence there was need to amend the Standing Orders to make provision for the procedure for consideration of treaties including the procedure for effecting reservations to a treaty.
- (ii) The establishment of a standalone committee on treaties may be considered in future.

Recommendation: The Committee recommended that the Standing Orders be amended by inserting a new Part on **Ratification of Treaties** to provide for the ratification of treaties by the House –

PART XXI: Ratification of Treaties

Ratification of Treaties

170A (1) A treaty submitted to the National Assembly for ratification shall be laid on the Table of the House and stand committed to the relevant Committee for consideration.

(2) The Committee shall undertake public participation before submitting its report to the House.

(3) In addition to the information required to be submitted to National Assembly under written law, the Committee may require the relevant Cabinet Secretary to submit further information, including –

- (a) social and environmental impact of the treaty in the short-term, medium-term and long-term; and,
 - (b) nature and evidence of any public participation conducted on the treaty.
- (4) The report of the Committee to the House shall include-
 - (a) an examination of the treaty and the memorandum prescribed under the law relating to treaty making and ratification and any other information;
 - (b) information on the views of the people on the ratification of the treaty emanating from public participation conducted by the Committee;
 - (c) the findings of the Committee on the treaty and any other information the Committee may deem necessary.
 - (d) a recommendation that the House -
 - (i) approves the ratification of a treaty, or
 - (ii) approves the ratification of a treaty with reservations, or
 - (iii) rejects the ratification of a treaty.
- (5) In approving ratification of a treaty with reservations, the House shall specify the affected provisions of the treaty and the proposed text of each reservation, which may include prescription of timelines within which an obligation is to be fulfilled before implementation of the Treaty.
- (6) Upon decision of the House on a treaty, the Clerk shall notify the relevant Cabinet Secretary within seven days and enter the information in the register of treaties.

1.4 PROPOSALS BY THE MEMBER FOR GARISSA TOWNSHIP, THE HON. ADEN DUALE, EGH, MP

12. In a letter dated 5th January 2022, the Member for Garissa Township Constituency, the Hon. Aden Duale, EGH, MP submitted proposals to amend the Standing Orders in line with Standing Order 264. The preliminary observations and recommendations are discussed hereunder –

Proposals regarding the place of Omnibus Bills

13. The Member for Garissa Township observes that omnibus Bills, being Bills that allow the House to amend several legislations or statutes at a go, have gained prominence and traction over time. The House has on a number of occasions considered and passed Omnibus Bills among them being the Tax Laws (Amendment) Bill Act, Statute Law (Miscellaneous Amendments) Bills, Finance Bills and several health-related Bills most of which have largely been from the Executive.
14. Nonetheless, the Hon. Duale noted that no Member has yet sponsored an Omnibus Bill largely due to misconceptions that such Bills can only emanate from the Executive and secondly that such Bills are often subject to challenge in court. He however observed that this is not the case and based on the court cases where omnibus Bills have been challenged, the grounds of contentions has always been inadequacy public participation rather than the form/nature of the Bills. In this regard, the Member for Garissa Township avers that when properly processed, including by adhering to the dictates of Article 118 of the Constitution, omnibus Bills can be a route through which the House can attain maximum efficacy in exercising its constitutional legislative function.
15. **Based on the foregoing, the Hon. Duale proposed that the Standing Orders be amended to entrench the process of introduction of omnibus**

Bills, including by private Members. The amendment to provide, *inter alia* –

- (a) when such Bills can be used;
- (b) that such Bills should be referred to different Committees;
- (c) for longer periods of public participation from the current 21 days as provided for in Standing Order 127 to 45 days to allow for adequate public participation.

Observation: The Committee observed that in the current practice, the Speaker has from time to time committed Bills proposing the amendment of various statutes to different Committees. The proposal therefore would be seeking to codify the practice.

Recommendation: Amend Standing Order 127 by inserting the following after paragraph (2) -

- a. “(2A) Save for a Finance Bill, the Speaker may refer various provisions a Bill proposing to amend more than one statute in its principal provisions, to the relevant Departmental Committees in accordance with their mandates”
- b. Despite paragraph (4), the Speaker may extend the period for public participation under paragraph (2A).

Proposals regarding Strengthening of Leadership Offices

16. Having served as the Leader of the Majority Party and in essence, the leader of government business in the House, the Hon. Duale observed that it was imperative for him to caucus with Members to articulate and present the party position on the legislative business in the House. He however noted that there existed no specified structures of engagement leaving it to self-initiative.

17. While comparing with other jurisdictions like the US Congress and the UK House of Commons, the Member observed that in these parliaments, there are structures to facilitate consultative meetings between the Leaders and the Members of the Congress and the House of Commons. These interactions offer an opportunity for the Leaders to explain the legislative agenda of the party and inform the Members on which legislative agenda to support in the House.
18. **The Hon. Duale proposed the creation of appropriate structures to facilitate these engagements between parliamentary party leaders (majority & minority) and their Members.**

Observation: The Committee noted that the Standing Orders do not reflect the provisions of Article 108 of the Constitution on the establishment of the offices of the Leaders of the Majority and Minority Parties in the National Assembly and their order of precedence in the House. There was need to reflect this recognition by the Constitution and to facilitate the offices.

Recommendation: the Committee proposed that the Standing Orders be amended to insert a new Standing Order –

- (i) recognizing the establishment of the offices of the Leaders of the Majority and Minority Parties in the National Assembly and their order of precedence in the House pursuant to Article 108 of the Constitution; and
- (ii) requiring the Speaker to facilitate the Leaders of the Majority and Minority Parties in the National Assembly in the discharge of the business of the House on behalf of their parties or coalition of parties.

Proposals on the processing of Members' Personal Data

19. The Hon. Duale notes that apart from the official Parliament website, there currently exists no database containing Members' personal data or information. There is hence need for Members' personal data to be codified by **amending the Standing Orders to provide that the Clerk shall keep and be the custodian of Members' personal data and further require the Clerk to regularly update the personal data.**
20. The proposed provision ought to require Members to provide personal data to the Clerk including the name of the Member, political party, constituency, committee(s) assigned, current and former leadership positions if any, education and professional experience (**optional**) and any other relevant information.

Observation: The Committee noted that this would help streamline the current management of Members' profiles/biodata and entrench the requirement for this data.

Recommendation: Insert the following New Standing Order 259B –

Members' Biodata and Roll

- 259B.** (1) At the commencement of every Parliament or following a by-election, a Member shall submit to the Clerk biodata in the prescribed form (Tenth Schedule – Members' Biodata) for purposes of facilitating the Member in the affairs of the National Assembly and public information.
- (2) A Member may at any time during the term of a Parliament update the information provided to the Clerk.
- (3) The Clerk shall keep custody of Members' biodata and regularly update the data whenever a Member submits information and may publish part of the information on the Parliamentary website.

(4) A Member shall be responsible for the accuracy of the information provided under this Standing Order.

(5) At least one month before the end of a term of Parliament, the Clerk shall publish in the *Gazette*, a Roll of Members who served in that Parliament in alphabetical order.

Proposals on the processing of Legislative Proposals

21. The procedure for processing of legislative proposals is provided for in Standing Order 114. The Hon. Duale observes that the experience of Members who have sponsored legislative proposals is that the current pre-publication scrutiny process is lengthy and prohibiting to Members wishing to legislate with some proposals taking up to three years in Committees. The Member contrasts the process with what obtains in the Senate where proposals seem to be processed faster as similar provisions do not exist.

22. The Member further observed that whereas the pre-publication scrutiny is a very critical process of “filtering wheat from the chaff”, it is imperative that Standing Order 114 be amended to allow the House to recall legislative proposals and the Speaker to approve the proposals for publication –

(i) where the Budget & Appropriations Committee has considered a legislative proposal and recommended that the legislative proposal be proceeded with; and

(ii) where a Departmental Committee has delayed in the consideration of a legislative proposal within the timelines set out in Standing Order 114(7), being 21 days.

23. The Member also observed that this would only be a **codification** of an emerging practice as undertaken in 2019 when the Speaker recalled several legislative proposals that had stalled in Committees for unduly long periods

and approved their publication in furtherance of the legislative functions of the House.

Observation: The Committee noted that the codification of this practice may leave the House with little room for assessing the merits of various circumstances as they arise.

Recommendation: The matter ought to be left to practice in the interim, and considered on a case by case basis.

Proposal on improving on the efficiency of committees

24. The Member for Garissa Township averred that Committees form an important avenue through which the House executes its duties. Therefore, effective committees translate to an effective House. In this regard, the Members proposed that –

- (a) The streamlining of the mandates of committees especially where the mandates are broad. This will ensure specialization and hence enhancing efficiency;
- (b) the membership of the Committees be reconsidered; and
- (c) additional committees be established to deal with emerging issues.

25. Specifically, the Hon. Duale proposed –

- (a) That a **Departmental Committee on Children & Youth** be established to deal with children and youth matters. These areas are currently sandwiched in the Departmental Committee on Labour & Social Welfare and not given the due regard they deserve. This is especially important noting that out of the

estimated national population of 50 million, approximately 35.7 million are youth.

- (b) That a **Departmental Committee on National Debt & Debt Management** be established to deal with, among other things, the national debt, debt management and oversight of public and private partnerships. This is an imperative subject matter which should not be sandwiched in mandate of the Budget & Appropriations Committee which specializes in dealing with budget matters. With the skyrocketing national debt and the warnings by international financial institutions regarding the state of the country's national debt, there is need for a dedicated committee to look into the matter.
- (c) That the Departmental Committee on Defence & Foreign Affairs be split into two Committees to establish a **Departmental Committee on Defence** and a **Departmental Committee on Foreign Affairs**. The two thematic areas should not be conjoined.
- (d) That the Departmental Committee on Transport, Public Works & Housing be split into two Committees to establish a **Departmental Committee on Transport & Public Works** and a **Departmental Committee on Housing**. One of the pillars of the Big Four Agenda is housing and hence there is need for a Committee to specialize on matters housing which have often not be given prominence as presently the Committee only focuses on matters transport and public works.
- (e) That the Procedure and House Rules Committee explores establishing a **Committee on General Oversight** to allow Cabinet Secretaries to attend the House to respond to questions of

a topical nature on a specified date, once a month. It is notable that whereas there have been arguments that such a proposal would offend the principle of separation of power, the Constitution does not prohibit such a structure and indeed if established, this would promote the efficiency of the House and its Committees in performing the constitutional oversight role.

- (f) That the membership of Departmental Committees be reduced from **19 Members to 15 Members.**

Observation: the Committee noted that proposals under (a) – (f) have varyingly been adopted with the proposed additional Committees and the varying of committee composition.

(g) Statutory Instruments – Committee on Delegated Legislation

- (i) *That noting that the Statutory Instruments Act No. 23 of 2013 does not require the Committee on Delegated Legislation to make a report to the House when it recommends approval of statutory instruments, the Standing Orders should be amended to require the Committee to make periodic reports to the House on what statutory instruments it has approved and which do not require the approval of the House.*
- (ii) *Further, the Standing Orders should be amended to require regulation making authorities to provide feedback or reports to the Committee on Delegated Legislation where a report of the Committee had recommended annulment. The feedback to the Committee should contain evidence that the regulatory authority has annulled/amended the statutory instruments as*

recommended by the Committee in order to ensure implementation.

Observation: The Committee noted that the proposal would further enhance the processing of Statutory Instruments in the House.

Recommendation: Amend Standing Order 210 by inserting new paragraphs after paragraph (5) to provide for reporting by the Committee on Delegated Legislation and a regulation making authority on statutory instruments annulled by House –

“5A. The Committee shall on quarterly basis, report to the House on the list of statutory instruments approved under paragraph (4)(a).

5B. (a) Where the House annuls part or an entire statutory instrument, the regulation making authority shall within twenty-one days, notify the Clerk and provide evidence that the annulment has been published in the Gazette.

(b) The Clerk shall enter the information in the register of Statutory Instruments and refer the information to the Committee.”

Proposals regarding Constitutional amendment Bills

- 26.** The Member for Garissa Township averred that a Bill to amend the Constitution is *sui generis* and its consideration is set apart from that of an ordinary Bill. In this regard, the Standing Orders ought to recognize the unique nature of Bills seeking to amend the Constitution. The Hon. Duale further avers that there is need to raise the bar for amending the Constitution.

To this end, the Member proposed that the Standing Orders be amended to, *inter alia* –

- (a) Raise the bar for introduction of such Bills;
- (b) Require a Member to collect signatures of at least 50 Members before initiating such a Bill and also before such a Bill is published;
- (c) Require that the memorandum of objects ought to contain a statement on whether, in the opinion of the Member, the Bill contains provisions that touch on the basic structure of the Constitution;
- (d) Define the power of the Speaker to decline to approve the publication of a Bill that seeks to amend ‘the Basic Structure’ of the Constitution;
- (e) Provide that a Bill to amend the Constitution which does not pass may not be reintroduced in the same Parliament or session of Parliament;
- (f) Define the extent of public participation required before the publication of a Bill to amend the Constitution;
- (g) Provide that you cannot have closure of debate or adjournment of debate for a Bill to amend the Constitution in terms of Standing Orders 95 (Closure of Debate) and 96 (Adjournment of debate); and
- (h) Provide that the debate for a Bill to amend the Constitution should not be for less than **14 sitting days** to allow for public discussion and debate at Second Reading noting that there are no amendments to be made to the Bill. To this end, each Member should be allocated not less than 30 minutes.

Observation: The Committee observed that there was need to further provide for the processing of Bills seeking to amend the Constitution. However, the measures ought not to curtail Members' legislative mandate.

Recommendation:

- (a) Amend the Standing Orders to provide for checks on the introduction of a Bill to amend the Constitution keeping in mind the provisions of the Constitution; and
- (b) Amend Standing Order 95 (Closure of Debate) to exempt Constitutional Amendment Bills from the Standing Order.

Proposal regarding Points of Order by House Leadership

27. The Hon. Duale noted that as it is presently, the Leaders of Majority and Minority Parties do not rise in their places whenever a Member raises a *Point of Order* as provided for in Standing Order 83. This denies the Members a chance to appreciate that their Leaders may want to speak on a certain Point of Order and hence lack guidance and leadership. The Member therefore proposes that the Standing Orders be amended to allow the Leaders of Majority and Minority Parties to rise in their places whenever a Member raises a Point of Order if they deem it fit to respond or provide relevant information on the matter at hand.

Observation: The Committee observed that the practice of raising a point of order by a Member seeks to bring to the attention of the Speaker a matter of concern during a speech by another Member. Upon a point of order being raised, the Speaker gives a decision on the point of order or defers the decision for a later date. No Member is allowed to speak or respond to a point

of order unless as may be directed by the Speaker. It would therefore be appropriate that the current practice be retained with the Speaker giving direction on a case by case basis where a Leader of a Parliamentary Party or a Chairperson of a Committee may be called upon to respond to a matter within their mandate as raised in a point of order.

Recommendation: The Committee recommends that the limitation of direct response to a point of order raised by a Member be retained.

1.5 PROPOSALS BY THE MEMBER FOR KIBWEZI WEST, THE HON. PATRICK MUSIMBA, MP

28. The Member for Kibwezi West, Hon. Dr. Patrick Musimba, MP, in a letter dated April 2022, made various proposals for the amendment of the Standing Orders as hereunder –

(i) On the place of Independent Members in Committees

29. The Hon. Dr. Patrick Musimba noted that Committees of the House play an important part in the effectiveness of the legislature. Further, he notes that Article 99 of the Constitution gives all those intending to be elected as Member of Parliament the same threshold to meet regardless of political inclinations whether to a party or as an independent. In this regard, the Member is of the view, given this equality of the status, all Members ought to be fully involved in the orderly conduct of parliamentary duties and the committees especially noting that one of the key roles of Members is oversight. Therefore, independent Members should be considered in the composition of committees as oversight mainly takes place in committees. This would have the net effect of placing the independent Members at the same level as their party-affiliated counterparts.

30. In light of the above, the Member for Kibwezi West proposed that –

- (i) Standing Order 259A be amended to provide for the **place of an Independent Members' Caucus** with the objective of advancing the agenda of independent Members and full recognition of a leader/chairperson of this caucus.
- (ii) On the **composition of the Committee on Selection**, Standing Order 172 be amended by including this proposed leader/chairperson of the Independent Members' Caucus to be a part of the Committee of Selection. This way, the interests of the independent Members will be seen to be safeguarded in the selection of Members to serve in select committees of the House.
- (iii) Standing Order 174 on the **Criteria for Nomination** be harmonized to reflect the position after these proposals.

Observation: The Committee noted that the proposal would indeed entrench the place of independent Members in the House and its Committees.

Recommendation:

- (a) Amend the Standing Orders to insert a new Standing Order establishing a caucus for Independent Member's;
- (b) Amend Standing Order 174 by inserting the following new paragraph –

“2A. The Speaker shall, as practicable as possible, ensure that Members belonging to parties other than parliamentary parties and Independent Members are nominated to serve in Committees.

2B. The Speaker may decline to approve the presentation to the House Business Committee of a proposed list of committee membership if the criteria prescribed in this Standing Order is not adhered to by the Committee on Selection or a Member proposing the establishment of an *Ad hoc* Committee.”

(ii) On the Introduction of a Parallel Debating Chamber

31. The Hon. Dr. Musimba noted a need for review of the legislative process through the establishment of a mini-chamber. He proposed that the creation of a parallel debating chamber would be effective in providing additional time for the Second Reading of Bills and tabling of reports and thus expedite the legislative role of the institution. Additionally, the chamber would afford Members with vested interests who would like to contribute to the specific debates an opportunity to dispense of all their views.
32. A comparative study of the practice in the United Kingdom revealed that in the Westminster Hall, a parallel chamber is for debates on reports of select committees and for private Members to raise constituency and specialist matters. In Australia, a Federation Chamber has been established for the same purpose. Similarly, in 2016, the Parliament of Malaysia introduced a second chamber.

Observation: The Committee noted that the proposal was progressive and would provide ‘additional time’ for debate of House business, especially business from individual Members. However, there was need for further consideration of the matter to ensure seamless operationalization of the proposal. In this regard, the Committee recommended that this proposal be pending for consideration in the next review of the Standing Orders.

1.6 PROPOSALS BY THE MEMBER FOR DAGORETTI SOUTH, THE HON. JOHN KIARIE, MP

33. The Hon. John Kiarie, MP proposed amendments to the Standing Orders in the following areas—

(a) The mode of appointing the Leader of the Majority Party and the Leader of the Minority Party once they have been elected by their respective parties.

34. In his view, once the Majority or Minority Party elects a Leader the decision should be formally communicated to the Speaker by the Chairperson or the Secretary-General of the Majority or Minority party as the case may be, for information to the House.

(b) Strengthening of the Leadership Offices to facilitate the discharge of the duties of the Leaders of the Majority and Minority Parties

35. The Hon. Member notes that the Leadership offices are constitutional in nature and crucial in advancing the legislative business and agenda of the Parties. Their work involves holding meetings with their respective members for purposes of discussing or explaining party positions on legislative business before the House and would require to be facilitated by the House.

(c) Aligning the process of removal from office of the Leader of the Majority Party and the Leader of the Minority Party with due process and fair administrative action

36. The Member notes that due processes and fair administrative action are principles that are engraved in the Constitution and the Fair Administrative Action Act, 2015. He proposes that Standing Order 19 and 20 be amended to provide that—

- (i) *only bona fide Members of the Majority Party or Minority Party or Coalition of Parties as the case may be, should be allowed to vote to remove the Leader of Majority or Minority Parties;*
- (ii) *provision of adequate notice to the Leader being proposed to be removed;*
- (iii) *Any removal process of a Leader should be done through a vote;*
- (iv) *The Secretary-General of the Majority or Minority Party should then forward Minutes to the Speaker detailing the resolution of the respective party to remove a Leader including information on which Members attended the meeting for removal of the Leader and voted for the resolution; and*
- (v) *An appellate process within the Majority or Minority Party to challenge the resolution of a Party to remove a Leader.*

(d) Increasing Members' participation and efficiency in committees

37. The Member proposed reduction of the membership of Departmental Committees from nineteen to fifteen members.

(e) Establishment of a Public Debt Committee

38. The Member proposed that the Committee only deal with examination and scrutiny of public debt unlike the current scenario where public debt is not examined exhaustively save for when the Budget Committee is considering the Debt Management Strategy.

(f) Conferences with the Senate

39. The Member proposed regular conferences with the Senate as a forum for resolving any disputes or legislative business that involves both Houses,

including oversight, to save future Parliaments from the many disputes that have inundated the 11th and 12th Parliament, ending up in Courts.

(g) Members' Roll

40. The Hon. John Kiarie proposed that the Clerk maintain a Members Roll showing the name of each Member, the date he or she takes oath or affirmation; and when he or she ceases to be a Member. He notes that it is very difficult to obtain information relating to Members, especially those who served in previous Parliaments unless a person painstakingly goes through all Hansards records. He proposes that the Roll be deposited at the Parliamentary Library at the end of each term of Parliament.

Observations: The Committee noted that—

- (i) Standing Orders 19 and 20 provide that the person elected as the Leader of the Majority Party and the Leader of the Minority Party should be communicated in writing to the Speaker by the respective whips. They do not provide for instances where a whip is absent or has not been designated by their party.
- (ii) The Standing Orders should be amended to provide for the facilitation of Leadership offices which are constitutional offices
- (iii) Though the principles of due process and fair administrative action apply to the removal of the Leader of the Majority Party and the Leader of the Minority Party, the removal process occurs outside Parliament and the role of the Speaker is limited to notifying the House of official communication of the decision of a Party to remove its Leader. The Standing Orders may be amended to require –
 - i. a Member seeking the removal of the Leader of the Majority Party or the Leader of the Minority Party or their deputies to

- submit the request to their party together with the names and signatures of at least a quarter of all the Members of the party or coalition of parties.
- ii. a communication to the Speaker of the removal to include the minutes of the meeting at which the removal was decided and the names and signatures of the Members in attendance at such meeting;
 - iii. the Speaker to confirm that the threshold for the removal of a Leader of the Majority Party or a Leader of the Minority Party or their deputies has been met.
- (iv) Reduction of the Membership of committees would increase efficiency of committees;
 - (v) Establishment of a Committee to scrutinize the public debt would ensure oversight on an area that has not been fully oversighted by the Budget and Appropriations Committee;
 - (vi) Article 124 of the Constitution empowers the House to make Standing Orders for the orderly conduct of its proceedings. As such, any provision made in the Standing Orders does not necessarily bind the Senate. The only mandatory engagement in law between the two Houses is a Mediation Committee on a Bill or a joint sitting of Parliament.
 - (vii) A Members Roll would ensure that a proper record of Members' service to the House is maintained for posterity.

Recommendations:

- (a) Amend Standing Order 19 and 20 to—
 - (i) Provide for the manner of communicating the election of House Leadership in the absence of Whips;

- (ii) require the Speaker to facilitate the House Leadership in the discharge of their duties;
 - (iii) to require a Member seeking the removal of the Leader of the Majority Party or the Leader of the Minority Party or their deputies to submit the request to their party together with the names and signatures of at least a quarter of all the Members of the party or coalition of parties.
 - (iv) to require a communication to the Speaker of the removal to include the minutes of the meeting at which the removal was decided and the names and signatures of the Members in attendance at such meeting;
 - (v) to require the Speaker to confirm that the threshold for the removal of a Leader of the Majority Party or a Leader of the Minority Party or their deputies has been met.
- (b) Amend Standing Order 216 to reduce the Membership of Departmental Committees to fifteen Members;
 - (c) Amend the Standing Orders to establish a new Public Debt Committee; and
 - (d) Amend the Standing Orders to require the Clerk to maintain a Members Roll.

1.7 PROPOSALS BY THE MEMBER FOR SOY, THE HON. CALEB KOSITANY, MP

41. The Member for Soy Constituency, Hon. Caleb Kositany, MP, in a letter dated **7th March 2019** made the following proposal seeking to amend the sitting hours of the House as hereunder –

(a) That the National Assembly sittings be held as follows –

Tuesday	Morning Sitting	9:30am to 1:00pm
	Afternoon Sitting	2:30pm to 8:00pm
Wednesday	Morning Sitting	9:30am to 1:00pm
	Afternoon Sitting	2:30pm to 8:00pm

(b) That the time allocated for Zero Hour under Standing Order 43 be increased to one hour from the usual 6:30-7pm to 6:00-7:00pm on Tuesdays and Wednesdays.

Justification: the increased period of sitting would allow Members more time to make contributions during Chamber proceedings. Consequently, Committee meetings would be held on Monday afternoons and Thursday mornings in order to free up Thursdays from Chamber sittings. This would allow Members to travel to their Constituencies and better discharge their representation role.

Observation: The Committee observed that the proposed amendment would not considerably increase the total number of hours of sitting as envisaged by the Member. The net increase in the proposed amendment vis-à-vis the hours of sittings as currently constituted is only one (1) hour. Additionally, the concept of ‘Zero hour’ applied with regards to debate by Members on general matters which do not constitute substantive business

of the House. Extending the time allocated for zero hour may reduce the time available for debate of substantive business.

Recommendation: The Committee proposed that the hours of sitting remain as currently set out aware that the House may, from time to time, alter the sitting hours as provided for in the Standing Orders.

1.8 PROPOSALS BY THE MEMBER FOR KWALE COUNTY, THE HON. ZULEIKHA JUMA HASSAN, MP

42. The Member for Kwale County, the Hon. Zuleikha Juma Hassan, MP, in a letter dated 3rd December 2019 proposed an amendment to the Standing to allow access to the Chamber by infants being cared for by Members of Parliament. This was to facilitate lactating Members to continue breastfeeding up to the recommended age while ensuring that they are able to effectively execute their mandate in the House. The Member proposed an amendment to Standing Order 253 as follows –

“THAT, Standing Order 253 be amended by inserting the following new paragraph immediately after paragraph (2)”

“(2A) Paragraph (1) does not apply to an infant being cared for by a Member”

Observation: The Committee observed that the Parliamentary Service Commission had established a staffed crèche to facilitate lactating Members to attend and participate in sittings of the House and hence there was no need to make a provision on the same in the rules.

Recommendation: Following further deliberations on this matter, the Committee noted that the crèche as currently situated is not easily accessible from the Main National Assembly Chamber. The Committee agreed that the

Commission should consider relocating the crèche to a more convenient place within the Main Parliament building preferably on the ground floor and expand the facility to include appropriate rooms for lactating mothers and an outdoor play area for the infants.

1.9 PROPOSALS BY THE MEMBER FOR SUBA NORTH COUNTY, THE HON. MILLIE ODHIAMBO-MABONA, MP

43. By way of a letter dated 15th May 2022, the Member for Suba North, the Hon. Millie Odhiambo-Mabona, MP submitted a memorandum seeking to amend the Standing Orders in the following areas –

(a) Ranking system of Members of Parliament

44. The Member proposed the introduction of a ranking system of Members of Parliament akin to the American system. She proposed that a Ranking member should be the following;

- (i) The second-most senior member of a committee from the majority party, if not a committee chairperson. This should be designated Majority Ranking Member.
- (ii) The most senior member of a committee from the minority party. This should be designated Minority Ranking Member;
- (iii) On the floor of the House, all the ranking members from Committees to be so recognized and not more than 5 other Members not holding any office as chair or ranking member in the committees, but who have qualified as a Ranking Member. The five are to be selected in relation to seniority attained through swearing-in, akin to the Advocates' signature on the Roll.
- (iv) For one to qualify to be a Ranking Member, he or she should have served for at least two (2) terms and MUST be the most senior in the committee or in the House.

- (v) When a party's control of a legislative chamber changes, a committee's Ranking Minority member may be considered, (though not mandatory), to become the next chairman of the committee, and vice versa.
- (vi) Ranking Members should have designated sitting places in Parliament and as far as is practicable, given priority in contribution after the Membership of House Leadership and relevant chairs of committees; they should also be given priority in selecting the committees they wish to serve in;
- (vii) Ranking Members are expected to act in a manner that reflects this status and Ranking status may be removed on recommendations of the Committee of Privileges based on misconduct by a Ranking member;

Observation: The Committee observed that the concept of '*Ranking Member*' in other parliamentary jurisdictions refers to the senior most Member of a Committee after the Chairperson. In the context of the Kenyan Parliament, the term has been used to refer to a Member with the longest period of service to the House or who has held a position of leadership in the House. To harmonize this with the proposal for the election of two Vice-Chairpersons of Committees, there is need to define the term Ranking Member as a Member with the longest period of service to the House or who has held a position of leadership in the House.

Recommendation: Amend the Standing Orders to insert a new Standing Order on the designation of Ranking Members by the Speaker and the criteria for such designation.

(b) Organisation of the African, Caribbean and Pacific States-European Union (OACPS-EU) Joint Parliamentary Assembly

45. The Member proposed that parties should nominate and Members vote for Members of the OACPS -EU Parliamentary Assembly based on parliamentary

strength, while taking into account gender and regional interests. Such Members should serve the full term and report to the House just like the Pan African Parliament. No one member should belong to the two parliaments.

Observation: The Committee observed that currently, the Deputy Speaker leads the parliamentary delegation to the OACPS -EU while the membership of the delegation is shared between the Members of the National Assembly and the Senate. Membership of a delegation is not fixed and the two Speakers designate different Members to attend different sessions of the Assembly based on the committee of the OACPS-EU JPA allocated to the country. Consideration is made on the Members' expertise in the various mandates of the OACPS-EU Committees.

Additionally, Article 124 of the Constitution requires Parliament to provide Standing Orders for the orderly conduct of its proceedings. The Committee was of the view that this matter was outside the purview of the Standing Orders.

Recommendation: The practice of designating membership of delegations to OACPS-EU meetings be retained.

(c) Speakers' Panel

46. The Member proposed that parties should nominate members to the Panel and the Speaker approve the same. A member may be removed by the Speaker based on recommendations of the Privileges Committee in case of misconduct by a member of the Panel. The selection should be based on Parliamentary strength, and reflect ethnic and regional balance.

Observation: The Committee noted that currently, as provided for under Standing Order 16(2), the Speaker consults with leaders of parliamentary parties in nominating members to the Panel. Standing Order 17 provides for discharge of a Member from the Speaker's Panel. The current removal process is sufficient and linking all intended removals to breach of privilege requiring the intervention of the Committee on Powers and Privileges may not be appropriate.

Recommendation: The current practice of appointment and discharge of Members of the Chairperson's Panel be retained.

(d) Membership to the Parliamentary Privileges Committee

47. The Member proposed that the Membership should be composed of Members who have served more than one Parliamentary term.

Observation: The Committee observed that there was need to provide for the procedure of selecting Members to the Committee on Privileges in view of the mandate of the Committee.

Recommendation: Amend the Standing Orders to include considerations to be made in selecting Members to the Committee.

(e) Co-Sponsorship of Bills

48. The Member proposed that there should be co-sponsorship of Bills by a Member of the National Assembly and the Senate where the Bill relates to Counties.

Observation: The Committee noted that there was need to amend the Standing Orders to allow for co-sponsorship of Bills between Members of the House or a Member of the House and a Senator. Where the Bill is a Bill

concerning counties, co-sponsorship would allow for a Member in charge of a Bill to notify the Speaker of the name of a Senator the Member has nominated to co-sponsor the Bill in the Senate after the passage of the Bill. In transmitting the Bill to the Senate the Clerk should notify the Senate of the name of the co-sponsor of the Bill. The co-sponsor would then be in charge of the Bill in the Senate.

Recommendation:

- a) Amend Standing Order 114 to allow a Member to introduce a legislative proposal jointly with other Members.
 - b) Amend Standing Order 120 to require the inclusion of any co-sponsor of a Bill in the published version of the Bill.
 - c) Amend Standing Order 142 to require a Member in charge of a Bill to notify the Speaker in writing of the name of any Member of the Senate that the Member has nominated to co-sponsor the Bill in the Senate and to require the Clerk to notify the Senate of the name of the co-sponsor of the Bill.
 - d) Amend Standing Order 143 to require the Speaker to inform the House of any Member who has been nominated by a Senator to co-sponsor a Bill originating from the Senate in the House.
- (f) Bill that has passed pre-publication scrutiny not to undergo the same process in the immediate succeeding Parliament**
49. The Member proposed that a Bill that has passed pre-publication scrutiny should not go through the same process in the immediate succeeding Parliament if introduced in substantially the same form, whether by the previous sponsor once elected, or by a new Member.

Observation: The Committee noted that to ensure continuity of Bills, there is need to provide that should a Member be re-elected and the Member had sponsored a Bill which had been read a First time, the Bill ought to be exempted from pre-publication scrutiny.

Recommendation: Amend Standing Order 114A to allow for this exemption.

(g) Ranking of Private Members' Bills

50. The Member proposed that other than Bills sponsored by the party, there should be a ranking of Bills sponsored by Private members, based on when they are **forwarded** or presented to the clerk/House by a Member. There should be a register that delineates the date of receipt of Bill. Each Bill should be given a Pre-publication number that shows when it was presented to the House.

Observation: The Committee observed that at the pre-publication stage, the pace of progress of Bills is dependent on various extraneous factors e.g. some proposals are considered by both the Budget and Appropriations Committee and the relevant Departmental Committee and may take more time. Some proposals may be seeking to make a single amendment to an Act of Parliament while others may seek to repeal and replace an entire Act. The timelines are therefore not predictable and ought not to be fixed.

Recommendation: The Committee recommends that the current practice be retained.

(h) A Private Member's Bill that takes more than one year in a committee should be presumed approved

51. The Member proposed that a Private Member's Bill that takes more than one year in a committee should be presumed approved and the Member facilitated

by Parliament to undertake public participation of the Bill. This approval should equally apply to Bills under consideration by the Budget and Appropriations Committee.

Observation: The Committee observed that whilst various reasons may occasion delay in the pre-publication scrutiny by Committees, it would not be appropriate to provide for presumed failure and/or refusal. Additionally, there are no mechanisms for an individual Member to conduct public participation of a Bill. Additionally, the Speaker has from time to time recalled legislative proposals that have unduly delayed in Committees with no justified reason proffered.

Recommendation: That the current practice be retained with each legislative proposal considered on a case by case basis.

(i) Support to Parliamentary Caucuses

52. The Member proposed that there should be an open and participatory process of members joining a Caucus. As much as is practicable, there should be no two Caucuses with substantially similar mandates. Special recognition should be given to Caucuses that span more than one jurisdiction and that may have a long history. As much as is practicable, Parliament should designate an officer to support a Caucus and offer logistical support for at least four meetings in a year.

Observation: The Committee noted that Standing Order 259A currently allows Members to form and join caucuses of their choice. This right ought not to be unduly restricted. As regards special recognition, the Taskforce observed that this may elevate some caucuses above others and create conflict

with the discharge of Committees' mandates. With regard to logistical support to Caucuses, it is noted that this is currently provided on a case-to-case basis.

Recommendation: The provisions of Standing Order 259A adequately provide for concern of the Member.

(j) Continuous learning by Members of Parliament

53. The Member proposed that each Member of Parliament should, just like all other professions, be engaged in continuous learning process. This should entail a combination of local trainings at the Parliamentary Training Centre and comparative visits to relevant jurisdictions. There should be equality and equity in access to continuous learning.

Observation: The Committee noted that capacity-building and professional development of Members of Parliament is an administrative matter within the purview of the Parliamentary Service Commission.

Recommendation: The issue need not be included in the rules of procedure of the House.

(k) Members facilitated to undertake their legislative roles

54. The Member proposed that Parliament should facilitate members to undertake their legislative roles including availing in each office a set of the Laws of Kenya. A Member who loses any of the laws should replace them at the end of the term.

Observation: The Committee noted that Members of Parliament are currently facilitated by the Parliamentary Service Commission to undertake

their legislative role through the various directorates and departments which process any request made for the introduction of legislation.

Recommendation: The issue need not be included in the rules of procedure of the House.

1.10 SPEAKER'S COMMUNICATION OF 9TH JUNE 2020 ON ENTITLEMENT OF SLOTS IN SELECT COMMITTEES AND DISCHARGE OF MEMBERS FROM COMMITTEES

55. In June 2020, the Member for Ugenya Constituency, the Hon. David Ochieng, MP had raised various issues relating to the application of Standing Orders 172, 173 and 176. The concerned majorly revolved on **whether a Member belonging to a party other than a 'parliamentary party' may be discharged from a Committee of the House by any parliamentary party.** The concern was as a result of a notice received by the Member from the Minority Party Whip notifying him of the Party's intention to discharge him from the Departmental Committee on Health pursuant to the provisions of Standing Order 176.
56. By way of a Communication issued on 9th June, 2020 on "*Entitlement of slots in Select Committees and Discharge of a Member from Select Committees by parliamentary parties*" the Hon. Speaker gave the following guidance—
- (a) THAT, the exercise of the discharge powers of a party under Standing Orders 176 is restricted to Members belonging to the particular parliamentary party and those from other smaller parties who have entered into formal coalition agreements;
 - (b) THAT, NO parliamentary party is to exercise the discharge powers of a party under Standing Orders 176 to remove a Member who is not a Member of the particular parliamentary party from any Committee of the House, even on the basis of having granted the

Member the nomination to the particular Committee as that conception is based on misapplication of the Standing Orders;

- (c) THAT, since the Member for Ugenya Constituency, the Hon. David Ochieng', MP neither belonged to any parliamentary party nor was his Movement for Democracy and Growth Party (MDG) in a coalition with any of the parliamentary parties, the notice given by the Minority Party Whip to discharge the Member from the Departmental Committee on Health was erroneous *ab initio* and therefore invalid;
- (d) THAT, in view of the continued misapplication of Standing Order 174 by assuming that all committees' slots are reserved for the exclusive distribution to the membership of parliamentary parties thereby alienating the Independent Members and Members belonging to parties other than parliamentary parties, the Committee on Selection in consultation with the Procedure and House Rules Committee ought to devise a criteria for nomination of Members to Committees that guarantees that Members who belong to parties other than Parliamentary parties and Independent Members also get their rightful share of Committee slots. This may include proposals for registration of desired committee(s) and the use of lots as a means of determining how to place such Members in their entitled slots; and,
- (e) THAT, the Procedure and House Rules Committee does initiate the process of proposing amendments to the Standing Orders so as to expressly provide for the said criteria. The Committee may also propose the manner of ordinary reallocations of the slots in Committees corporately reserved for Independent Members and

parties other than parliamentary parties, amongst the Independent Members and those belonging to the small parties that do not constitutes parliamentary parties.

Observations: The Committee noted that implementation of the above Communication would require amendment of the Standing Orders to—

- (a) provide for the entitlement of Members of parties other than parliamentary parties and independent Members to membership of committees;
- (b) require the Committee on Selection to consult with parties other than parliamentary parties and independent Members in nominating Members to the committees of the House; and
- (c) allow parties other than parliamentary parties to discharge their Members from Committees.

Recommendation:

- (i) Amend of the definition of “party whip” to expand its application to parties other than parliamentary parties;
- (ii) Amend of Standing Order 171(1) (f) to allow the interests of parties other than parliamentary parties to be taken into consideration when constituting the House Business Committee;
- (iii) Amend of Standing Order 172 (1) (c) to allow the interests of parties other than parliamentary parties to be taken into consideration when constituting the Committee on Selection;
- (iv) Amend of Standing Order 173 (1) to require the Committee on Selection to consult parties other than parliamentary parties and

independent Members when nominating Members to serve in select Committees;

- (v) Amend of Standing Order 174 (2) to expressly provide that Members from parties other than parliamentary parties and independent Members are entitled to be nominated to serve in select committees. The current use of the word “may” gives undue discretion to the Committee on Selection;
- (vi) Amend of Standing Order 176 to expand the application of the procedure for discharging a Members from a Committee to parties other than parliamentary parties;
- (vii) Amend of Standing Order 213 (3) to require the Committee on Selection to consult parties other than parliamentary parties and independent Members when nominating Members to serve in Joint Committees; and
- (viii) Amend of Standing Order 216 (1) (a) to require the Committee on Selection to consult parties other than parliamentary parties and independent Members when nominating Members to serve Departmental Committees.

1.11 PROPOSALS RECEIVED FROM DIRECTORATES AND DEPARTMENTS OF THE NATIONAL ASSEMBLY

57. The Clerk of the National Assembly through the various Directorates/Departments in the National Assembly proffered amendments to be considered in the review process. Submissions touching on various areas were received from –

- 1) Directorate of Legislative & Procedural Services,
- 2) Directorate of Departmental Committees,

- 3) Directorate of Audit, Appropriation & Other Select Committees,
- 4) Directorate of Legal Services, and
- 5) Parliamentary Budget Office.

58. A detailed analysis of the proposals from the various Directorates is summarised below –

59. Processing of Constitutional Amendment Bills

The following proposals were made relating to the processing of Constitutional amendment Bills –

- a) consider increasing the timeline for pre-publication scrutiny of the Constitution of Kenya Amendment Bills. The current timeline is 21 days similar to ordinary Bills.
- b) a proposed Constitution of Kenya Amendment Bill ought to fulfill a list of requirements akin to the checklist in the consideration of petitions;
- c) Exempt Bills to amend the Constitution from provisions of Standing Order 95 on closure of debate

Observation: The Committee noted that-

- a) whilst there is need to prescribe a procedure for the consideration of legislative proposals seeking to amend the Constitution, this ought to be within the constitutional threshold to ensure that the process does not curtail Members' legislative role as provided in the Constitution.
- b) there is need to exempt Bills to amend the Constitution from provisions of Standing Order 95 on closure of debate, to allow Members adequate time to debate the Bill.

Recommendation: Amend the Standing Order 95 to exempt Bills to amend the Constitution from the provision.

60. Co-sponsorship of Bills

Proposal to introduce co-sponsorship of Bills to reduce on cost and to save time. The co-sponsorship may be between Members of the National Assembly, or between a Member of the National Assembly and a Senator.

Observation: The Committee noted that there was need to amend the Standing Orders to allow for co-sponsorship of Bills between Members of the House or a Member of the House and a Senator. Where the Bill is a Bill concerning counties, co-sponsorship would allow for a Member in charge of a Bill to notify the Speaker of the name of a Senator the Member has nominated to co-sponsor the Bill in the Senate after the passage of the Bill. In transmitting the Bill to the Senate the Clerk should notify the Senate of the name of the co-sponsor of the Bill. The co-sponsor would then be in charge of the Bill in the Senate.

Recommendation:

- e) Amend Standing Order 114 to allow a Member to introduce a legislative proposal jointly with other Members
- f) Amend Standing Order 120 to require the inclusion of any co-sponsor of a Bill in the published version of the Bill.
- g) Amend Standing Order 142 to require a Member in charge of a Bill to notify the Speaker in writing of the name of any Member of the Senate that the Member has nominated to co-sponsor the Bill in the Senate and to require the Clerk to notify the Senate of the name of the co-sponsor of the Bill.
- h) Amend Standing Order 143 to require the Speaker to inform the House of any Member who has been nominated by a Senator to co-sponsor a Bill originating from the Senate in the House.

61. Standing Order 1 – In cases not provided for, the Speaker to decide

That Standing Order 1 to be moved to the last Part for sequencing. This will ensure that after all the provisions are listed, the Speaker is then given discretion to rule on any other matter not provided for.

Observation: The Committee was of the view that Members are used to the provision as it currently appears in the Standing Orders. Therefore, moving the Standing Order might create unnecessary confusion among Members.

62. Standing Order 2 – Interpretation

Proposal to –

- a) Provide for the period for consideration of the Budget Policy Statement as part of the definition of **allotted day**.

Observation: The Committee was of the view that the concept of ‘allotted day’ does not apply to the consideration of the Budget Policy Statement. However, the definition of the concept would require amendment to include the period set aside for debate on the president’s address to Parliament.

Recommendation: insert the following words in the definition of ‘allotted day’

“for debate on the President’s address to Parliament as provided in Part V or’ immediately after the words ‘set aside’.”

- b) Under **“Leave of the Speaker”**, include a provision in the Standing Orders explaining how the leave of the House is obtained. The aspect of “five members rising in their places” in opposition to the grant of leave ought to be clear.

Observation: The Committee proposed that this be left to practice. Defining it in this manner would amount to explaining a concept in the Standing Orders.

- c) Harmonize the use of the term “Majority Party Whip” in the Standing Orders. Some orders refer to “Majority Whip.”

Observation: The Committee agreed with the proposal as this would ensure clarity.

Recommendation: Amend the definition of Majority Party Whip, Minority Party Whip and Party Whip.

- d) Consider providing for the designation of Party Whips under a substantive Standing Order.

Observation: The Committee agreed with the proposal.

Recommendation: Insert New Standing Order on Parliamentary Party and their Whips.

- e) Precincts of Parliament – Proposal to make further amendments to the definition of “*Precincts of Parliament*”

Recommendation: The Committee was of the view that the current definition is sufficient for the usage in the National Assembly. The definition was not challenged by the courts and the term is only used once in the Standing Orders with regard to access to Parliament by Members sanctioned for gross disorderly conduct.

- f) In the definition of “Sitting” - proposal to delete the words “but two or more periods” appearing immediately after the word “Committee.”

Observation: The Committee observed that the current definition does not accord with the current practice where more than two sittings are held within the normal sitting timings, for instance between 2.30pm and 7.00pm.

Recommendation: Amend the definition of “sitting” to delete the words “but two or more periods” appearing immediately after the word “Committee.”

- g) Proposed new terms to be included in Standing Order 2 – “Division list”

Observation: The Committee was of the view that there is need to define the term for purposes of clarity.

Recommendation: Amend Standing Order 2 to include definitions of the terms.

- h) Proposal to amend Standing Order 2(2) to make use of electronic means of communication since some Members do not have pigeon holes and those who do rarely use them.

Observation: The Committee agreed with the proposal.

Recommendation: Amend Standing Order 2(2) by inserting the words “or parliamentary offices; by electronic means to the Members’ official communication addresses or numbers;” immediately after the words “pigeon holes.”

63. Standing Order 3: Proceedings on assembly of a new House

- a) In the opening statement, make it clear that the Clerk shall preside during the administration of oath to Members and the election and swearing in of the Speaker.
- b) Amend the order of precedence observed during swearing-in of Members;
- c) Insert the word “National” immediately before the word “Assembly” under Standing Order 3(2)(a);
- d) Reorder the paragraphs of the Standing Orders for logical flow
- e) Proposal to delete the words “after the first sitting of the house” and replace with “following a by-election” in Standing Order 3(6);

- f) Move Standing Order 3(7) to be Standing Order 3(6) and reword it as follows:

“Notwithstanding Standing Order 30 (Hours of Meeting), the first sitting of a new house following a general election shall commence at 9:00am and shall continue sitting until conclusion of the business listed in the Order Paper.”

- g) Consider replacing the word “members” with “members-elect” in Standing Order 3(3), (4), (6) & Standing Order 5(3)

Observation: The Committee observed that—

- (a) Standing Orders 3(4) already provided for presiding by the Clerk before the election of a Speaker.
- (b) There was need to amend the Standing Order to make it clear the Members to be escorted and presented to the Speaker are those that are elected through a by-election and not those elected through a general election but miss the swearing-in.
- (c) There was need to amend the Standing Order to include Members who have served the House in leadership positions in the order of precedence observed during swearing in.
- (d) There was need to amend the Standing Orders to reflect the title applicable to Members before they are sworn in.
- (e) There was need to amend the Standing Order to allow the House to conclude the swearing-in of all Members as well as the election of the Speaker and Deputy Speaker.

Recommendation: Amend Standing Order 3 to –

- a) Insert the word “National” immediately before the word “Assembly” in Paragraph 3(2)(a);

- b) Include Persons who have served in the following leadership offices in the National Assembly in the order precedence observed during swearing-in of Members –
 - (i) Speaker
 - (ii) Leader of the Majority Party
 - (iii) Leader of Minority Party
 - (iv) Deputy Speaker
- c) Delete the word ‘Member’ and replace it with the word ‘member-elect.’
- d) Delete the words “after the first sitting of the House” and replace it with the words “following a by-election” in Paragraph (6).
- e) Delete Paragraph (7) and replace it with the following –

“Notwithstanding Standing Order 30 (Hours of Meeting), the first sitting of a new house following a general election shall commence at 9:00am and shall continue sitting until conclusion of the business listed in the Order Paper.”
- f) Reorder the paragraphs for logical flow.

64. Standing Order 4: Vacancy in the Office of the Speaker –

- a) Change title to “Election of Speaker after a General Election”;
- b) Insert the words “shall preside” immediately after the word “Constitution” in Standing Order 4(3)
- c) Move Standing Order 4 (2) & (3) to the proposed New Standing Order 12C dealing with a vacancy in the office of the Speaker.

Observation: The Committee observed that:

- a) The title of the Standing Order did not accord with its contents;

- b) The Standing Order 4(3) is not clear as to who is to preside if the Deputy Speaker was a candidate for election as Speaker;
- c) Paragraphs (2) and (3) are misplaced as they did not relate to the election of the Speaker. It would be important to actualize Article 106(2)(c) of the Constitution in PART IIA of the Standing Orders by inserting a new Standing Order 12C which incorporates Standing Order 4(2) & (3).

Recommendation: Amend Standing Order 4 to –

- a) Delete the title and replace it with “Election of Speaker after a General Election”
- b) Insert the words “shall preside” immediately after the word “Constitution” in paragraph (3);
- c) Move paragraphs (2) & (3) to a new Standing Order 12C on the procedure to be followed upon a vacancy in the office of the Speaker. *(The procedure on this part shall apply with necessary modification in the case of the Deputy Speaker.*

“12C. (1) The office of the Speaker/Deputy Speaker shall become vacant if the office holder vacates office under Article 103 (Vacation of office of a Member of Parliament).

(2) If the office of Speaker falls vacant at any time before the expiry of the term of Parliament, no business shall be transacted by the House until the election of a new Speaker.

(3) The Deputy Speaker shall preside over the election under paragraph (2) but if the Deputy Speaker is a candidate, a Member elected by the House in accordance with Article 107 of the Constitution.”

65. Standing Order 5: Nomination of candidates

- a) Include the words “*for election as Speaker*” immediately after the word “candidates” in the title;
- b) In paragraph (3), increase the number of names and signatures of Members-elect who support candidates for election to the office of the Speaker.
- c) In paragraph (3), include a provision requiring nominees to provide a comprehensive list of documents to accompany nomination papers and indicate that the nominee qualifies to be a Member of Parliament;
- d) Delete the word “meeting of the Assembly” appearing immediately before the word “prepare” and replace with “sitting of the assembly” in Standing Order 5(6).
- e) Include a provision to give a notice of at least seven (7) days for candidates to submit their nomination papers in case of an election due to a vacancy in the office of the Speaker.

Observation: The Committee observed that –

- a) There was need to amend the Standing Order to standardize the requirements for election of candidates as Speaker/Deputy Speaker;
- b) Increasing the number of signatures of Members required for one to be nominated for election as Speaker would be burdensome to candidates;
- c) Introducing a requirement to give a notice of at least seven (7) days for candidates to submit their nomination papers in case of an election due to a vacancy in the office of the Speaker would be impractical as the *gazettement* of the first sitting of the House by the President is outside the control of the administration of Parliament and there is no justification for a 7-days period as opposed to the current 48 hours period.

- d) Provide for a formal return of the nomination papers specifying place and time.

Recommendation: Amend Standing Order 5 to –

- a) Include the words “*for election as Speaker*” immediately after the word “candidates” in the title;
- b) Include a draft Nomination Form and declaration form to be anchored under paragraph 3 and attached in the 9th Schedule for ease of reference.
- c) Delete the word “meeting of the Assembly” appearing immediately before the word “prepare” and replace with “sitting of the assembly” in paragraph (6).

66. Standing Order 6: Secret ballot

In Standing Order 6(4), delete the words “and destroy” because of the provision in Standing Order 10 requiring the Clerk to maintain custody of the ballot papers.

Observation: The Committee noted that Standing Order 10 required the Clerk to keep custody of ballot papers for at least six months for use as evidence in case of a complaint arising from the election of a Speaker. The proposal prohibited the Clerk from destroying spoilt ballot papers for the reason stated above.

Recommendation: Amend Standing Order 6 to delete the words “and destroy.”

67. Standing Order 8: Withdrawal of candidate

In Standing Order 8, delete the word “issued” and replace with “printed.”

Observation: The Committee noted that Standing Order 6(3) requires the Clerk to “issue” ballot papers while Standing Order 8 refers to “printed” ballot papers. There is need to align the usage of the two terms.

Recommendation: Amend Standing Order 8 to delete the word “issued” and replace it with “printed.”

68. Standing Order 10: Custody of ballot papers

In Standing Order 10, insert the words “*including spoilt, returned*” immediately after the word “*used*”.

Observation: The Committee noted that Standing Order 6(4) requires the Clerk to maintain custody of ballot papers marked in error. In case of a dispute in regard to election of a Speaker, such ballot papers, including any that are spoilt or unused would be required for scrutiny.

Recommendation: Amend Standing Order 10 to insert the words “including spoilt, returned” immediately after the word “used”.

69. Standing Order 12A: Resignation

Delete paragraph (1) and replace with –

“The office of the Speaker or Deputy Speaker shall become vacant if the office holder resigns by a letter addressed to the House as contemplated under Article 106(2)(d) of the Constitution”

Observation: The Committee noted that the Standing Order did not indicate the recipient of the letter of resignation submitted by the Speaker or Deputy Speaker.

Recommendation: Amend Standing Order 12A by deleting paragraph (1) and replacing with the following new paragraph;

“The office of the Speaker or Deputy Speaker shall become vacant if the office holder resigns by a letter addressed the House as contemplated under Article 106(2)(d) of the Constitution”

70. Standing Order 16: Chairperson’s Panel

Proposal to increase the membership of the Chairperson’s Panel to six (6).

Observation: The Committee noted that there was need to increase the membership of the panel to better manage workload of presiding in the House and improve efficiency.

Recommendation: Amend Standing Order 16(1) by deleting the word ‘four’ and replacing it with the word ‘six’.

71. Standing Order 19: Leader of the Majority Party and Deputy Leader of the Majority Party

Include a provision to obligate the Clerk to obtain a certified copy of any coalition agreement entered into by parties in the National Assembly.

Observation: The Taskforce noted that there was need to provide for the manner in which coalition agreements may be obtained by the House to enable the Speaker to ascertain whether such agreements had been taken into account in the election of the Leader and Deputy Leader of the Majority Party.

Recommendation: Amend the Standing Orders to include a provision to obligate the Clerk to obtain, from the registrar of political parties, a certified

copy of any coalition agreement entered into by two or more parties in the National Assembly, for the convenience of the House.

72. Procedure for the removal of the Leader of the Majority Party and the Leader of the Minority Party

Proposal to change the procedure for removal of the Leader of Majority Party and Leader of Minority Party and create a threshold for removal of the holders of the offices in order to guard against abuse of the process.

Observation: The Committee noted that there was need to amend the procedure for removal of the Leader of Majority Party and Leader of Minority Party to entrench a threshold and standards to guard against abuse of the process of removal from office which shall strengthen the leadership offices and facilitate the discharge of their respective duties.

Recommendation: Amend Standing Order 19 and 20 to:

- (a) Require a whip of the largest party or coalition of parties in the National Assembly to forthwith, upon a decision being made by the largest party or coalition of parties, communicate to the Speaker in writing, the decision of the largest party or coalition of parties to remove a Leader of Majority Party..
- (b) Require a whip of the largest party or coalition of parties in the National Assembly to submit to the Speaker, the decision of the party together with—
 - (i) the minutes of the meeting at which the decision was made by the largest party or coalition of parties; and

- (ii) the names and signatures of the Members who approved the proposal to remove the Leader of Majority Party at the meeting.
- (c) Require the Speaker to notify the House of the decision of the largest party or coalition of parties and the office of the Leader of Majority shall fall vacant upon communication of such a decision.
- (d) The procedure for removal of a Leader of Majority Party to also apply to the Leader of Minority Party (Standing Order 20).

73. Standing Order 25: Visiting dignitary

Proposal to make a provision for debate on an address of a visiting dignitary.

Observation: The Committee noted that unlike the debate allowed on the President's address to Parliament, the House currently debates an address by a visiting dignitary on a case to case basis.

Recommendation: Debate on a speech by a visiting dignitary should be left to the practice of the House.

74. Standing Order 29: Special Sittings

Proposal to provide that any Special Sittings held after the adjournment of the House before the commencement of the next regular session of the House to be considered as falling within the previous Session.

Observation: The Committee observed that there was need to provide clarity for purposes of the records and journals of the House on Special Sittings held after the adjournment of a Session of the House and before commencement of the next Session for example a Special Sitting held in

January. The Taskforce was of the view that such a sitting should be considered as falling within the immediately preceding Session of the House.

Recommendation: Amend Standing Order 29 to include this provision.

75. Standing Order 42A: Notice of Question –

- (a) In paragraph (6), replace the “Leader of the Majority Party” with a neutral term.
- (b) Add new paragraph (7) to take into consideration instances of a minority government.

Observation: The Committee noted that Standing Order 42A does not contemplate a minority party being the party forming national government. There is therefore need to provide for such an eventuality.

Recommendation: Amend Standing Order 42A to provide that where the minority party is the party forming national government, the Leader of Minority Party shall perform the duties of the Leader of the Majority Party under the Standing Order.

76. Standing Order 42E: Timelines for reply to Questions:

In paragraph (2), delete “three days” and replace with “seven days.”

Observation: The Committee noted that there was need to provide for adequate time for a Cabinet Secretary to respond to a Question.

Recommendation: Following wide deliberations, it was recommended that the timelines be retained aware that the matter at hand refers to urgent questions of concern (Questions by private notice).

77. Standing Order 42F: Reports on Questions

In the opening statement, replace “progress report” with “statement.”

Observation: The Committee noted that there was need to require Chairpersons to make statements on Questions referred to the Committees. This would ensure the House is properly apprised on Questions under consideration.

Recommendation: Amend Standing Order 42F by deleting the words “progress report” and replacing with the word “statement.”

78. Questions to Independent Offices and Constitutional Commissions

Introduce a new Standing Order to provide for the procedure applicable to Questions directed to Independent Offices and Constitutional Commissions.

Observation: The Committee noted that there was no provision on the procedure applicable to Questions directed to Independent Offices and Constitutional Commissions.

Recommendation: Amend the Standing Orders to insert a new Standing Order 42G to apply the provisions of the Part to Questions directed to Independent Offices and Constitutional Commissions.

79. Standing Order 44: Statement hour

- a) Delete “*every Thursday*” in 44(1);
- b) Include Chairperson of a Committee in paragraph (2)(b) and insert a timeline for response to Statements;
- c) Move Standing Order 84 (Personal Statements) to Statement Hour (44(2)(d));
- d) Allow a Chairperson of a Committee to make regular statements relating to the mandate of the Committee.

- e) Insert a new paragraph to require approval of a request or a response to a Statement by the Speaker at least a day before a sitting of the House.

Observation: The Committee noted that –

- a) The current provisions restrict the making of Statement to Thursday only. Strictly followed, this limits instances where a Member may want to request for a Statement on a day other than Thursday.
- b) The current provisions do not allow Chairpersons of Committees to make statements relating to their responsibilities in the House every Thursday.
- c) Standing Order 84 relates to Statements and should be included under Standing Order 44 on Statements.
- d) The current provisions do not allow Chairpersons of Committees to generally make statements relating to their responsibilities in the House.

Recommendation:

- a) Amend Standing Order 44(2)(a) by deleting the words “every Thursday”;
- b) Amend Standing Order 44(2)(b) to include Chairpersons of Committees;
- c) Amend Standing Order 44(2)(c) to provide timeline of twenty-one (21) days or such shorter period as the Speaker may direct for statements requested by Members from Committees;
- d) Insert a new sub-paragraph (2)(d) allowing Chairpersons of Committees to make general statements relating to their responsibilities in the House;

- e) Move Standing Order 84 to Standing Order 44(2)(e).
- f) Insert a new paragraph (3) requiring approval of a request or a response to a Statement by the Speaker at least a day before a sitting of the House.

80. Standing Order 45: Committal to committees (*Approval of public appointments*) –

- (c) In paragraph (1), proposal to substitute the word “Departmental” with “Select” to codify the practice of committal of nominees to public offices to other committees and not only departmental committees.
- (d) In paragraph (4), proposal to increase the ~~time~~ line from fourteen (14) days to twenty-one (21).

Observation: The Committee noted that the current provision only allowed public appointments to be committed to Departmental Committees and the Committee on Appointment and limits the period of consideration to fourteen days which may be inadequate.

Recommendation: Amend Standing Order 45 to allow the Speaker to commit public appointments to other committees of the House, where appropriate; and to increase the period of consideration to twenty-one days.

81. Standing Order 52: Motions which may be moved without Notice

Provision to be provided for exceptional Motions on tributes of the House.

Observation: The Committee observed that there was need to provide for Motions on tributes of the House on the demise of certain specified State officers and other dignitaries.

Recommendation: Amend Standing Order 52 by a new paragraph immediately after paragraph (k)—

“(ka) an exceptional motion for the tributes of the House;”

82.Standing Order 62: Instances where the Constitution requires a fixed majority

In paragraph (2), insert *“Or such other time that the Speaker may determine”* immediately after the words *“first vote was taken.”*

Observation: The Committee noted that there was need to allow the Speaker discretion to determine when a further vote should be taken in instances where the Constitution required a fixed majority of the House for the approval of a matter.

Recommendation: Amend Standing Order 62(2) by inserting the words *“or such other time that the Speaker may determine”* immediately after the words *“first vote was taken.”*

83.Standing Order 87: Content of Speeches

Proposal to limit reference to newspaper or news reports, electronic media or other such sources as reference during debate.

Observation: The Committee observed that there was need to restrict the use of newspaper extracts or electronic media as reference during debate. This restriction was already in place for Questions (Standing Order 42B: General rules on Questions).

Recommendation: Amend Standing Order 87 to restrict reference to an extract from print or electronic media as an authority in the Member’s speech.

84. Standing Order 90: Declaration of interest

Once a Member has declared interest on a matter, it ought to be entered in a register of interests. The decision for a Member to recuse themselves should be made by the person presiding depending on whether the information disclosed is likely to prejudice that Member's determination.

Observation: The Committee noted that the Standing Orders did not provide for the registration of interests declared by Members and the procedure to be followed upon declaration of interest.

Recommendation: Amend Standing Order 90 to require the Clerk to record any declaration made in a register of interests and to empower a presiding officer to determine whether an interest declared by a Member prejudices the proceedings of the House or Committee and requires their recusal.

85. Standing Order 114: Introduction of Bills

In paragraphs (4) and (7) to increase the time given to the Budget and Appropriations Committee and Departmental Committees to report on pre-publication scrutiny from twenty-one days to thirty (30) days.

Observation: The Committee noted that the current provision did not allow adequate time for Committees of the House to conduct stakeholder engagements on legislative proposals.

Recommendation: Amend paragraphs (4) and (7) by deleting the word "twenty-one" and replacing it with "thirty".

86.Standing Order 114A: Speaker to exempt certain legislative proposals

Proposal to amend Standing Order 114A to allow for exemption of any Bill introduced, published and read a Second time but lapsed at the expiry of the term of the preceding Parliament from undergoing pre-publication scrutiny under Standing Order 114 if introduced by the same Member.

Observation: The Committee noted that the exemption of any Bill not concluded on by a preceding Parliament from undergoing pre-publication scrutiny shall allow continuity of the legislative business of the House.

Recommendation: Standing Order 114A be amended to provide that a Bill that was introduced, published and read a Second time but lapsed at the expiry of the term of the preceding Parliament shall be exempted from pre-publication scrutiny if introduced by the same Member in the succeeding Parliament.

87.Standing Order 121: Bills concerning county government

Delete paragraphs (2) and (3) –

Observation: The Committee noted that there are existing court decisions touching on the constitutionality of the Standing Order. There is need to align the Standing Order with Article 110 of the Constitution.

Recommendation: Amend Standing Order 121 by deleting paragraphs (2) and (3).

88.Standing Order 127: Committal of Bills to Committees and public participation

(a) In paragraph (4), increase the time given to a Committee to report its consideration on a Bill from 21 to 30 days.

(b) Exempt an Appropriation Bill, a Supplementary Appropriation Bill, a Consolidated Fund Bill, a County Allocation of Revenue Bill, a Division of Revenue Bill, an Equalization Fund Bill, and County Governments Additional Allocation Bill or a Bill to amend the Constitution in respect to its Second and Third Reading from the timelines prescribed.

Observation: The Committee noted that the current provision did not allow adequate time for Committees of the House to conduct stakeholder engagements on Bills and applies the timelines applicable to ordinary Bills to an Appropriation Bill, a Supplementary Appropriation Bill, a Consolidated Fund Bill, a County Allocation of Revenue Bill, a Division of Revenue Bill, an Equalization Fund Bill, and County Governments Additional Allocation Bill or a Bill to amend the Constitution. There was need to exempt the cited Bills from the timeline prescribed.

Recommendation: Amend Standing Order 127(4) by deleting the word “twenty-one” and replacing it with “thirty” and introduce a new paragraph (4B) to exempt an Appropriation Bill, a Supplementary Appropriation Bill, a Consolidated Fund Bill, a County Allocation of Revenue Bill, a Division of Revenue Bill, an Equalization Fund Bill, and County Governments Additional Allocation Bill or a Bill to amend the Constitution in respect to its Second and Third Reading from the timelines prescribed.

89. Part XXI: Committee of the Whole House

Move Standing Orders 166, 167, 168, 169 and 170 to be placed after **Standing Order 130** (*Committal of Bills to Committee of the whole House*)

Observation: The Committee noted that Part XXI of the Standing Orders (Committee of the Whole House) was not in logical sequence as the consideration of Bills is covered under Part XIX (Public Bills).

Recommendation: Amend the Standing Orders to delete Standing Orders 166, 167, 168, 169 and 170 and insert them as new Standing Orders 130A, 130B, 130C, 130D and 130E.

90. Standing Order 174: Criteria for nomination

Proposals to –

- (a) Entitle each Member to serve in at least one committee;
- (b) Ensure that Members belonging to parties other than parliamentary parties and independent Members are nominated to Committees;
- (c) Empower the Speaker to decline to approve presentation of a list of committee membership that contravenes this Standing Order.

Observation: The Committee noted that in the Speakers Communication issued on 9th June 2020, the Speaker had directed the Procedure and House Rules Committee to propose amendments on the entitlement of Members belonging to parties other than parliamentary parties and independent Members to Committees of the House.

Recommendation: Amend Standing Order 174 –

- (a) in paragraph (1) by inserting a new sub-paragraph entitling each Member to serve in at least one Committee;
- (b) by inserting new paragraphs (2A) and (2B) to provide that Members belonging to parties other than parliamentary parties and independent Members shall be nominated to Committees of the House; and to empower the Speaker to decline to approve

presentation of a list of committee membership that contravenes Standing Order 174, respectively.

91. Standing Order 178 and 188: Chairing of Committees and Absence of Chairperson and Vice-Chairperson

- (a) Provide for a **First** and **Second Vice-Chairperson** for each Committee and that one of which should be from the Minority Party. The committees to only elect a chairperson in the absence of the Chairperson and the two Vice Chairpersons.
- (b) Restrict a Member elected as a Vice Chairperson from serving as such in more than one committee.

Observation: The Committee noted that there was need to ensure certainty and continuity of committee business in the absence of the substantive Committee leadership. No additional facilitation to be accorded to the first and second vice-chairpersons except when performing the duties of the chairperson. Additionally, there is currently no restriction of a Vice Chairperson of a Committee from being elected as a Vice Chairperson of another Committee.

Recommendation:

- (a) Amend Standing Order 178 –
 - (i) in paragraph (1) by deleting the word “Vice-Chairperson” appearing immediately after the words “Chairperson and” and substituting therefor the words “two Vice-Chairpersons”;
 - (ii) in paragraph (2) by inserting the word “one” immediately after the words “Chairperson and”;
 - (iii) in the opening statement of paragraph (3) by inserting the word “one” immediately after the words “Chairperson and”;

- (iv) by inserting the following new paragraph immediately after paragraph (3)—

“(4) A Vice-Chairperson of a Committee shall not be eligible to stand for election as a Chairperson or Vice-Chairperson of another Committee.”

- (b) Amend Standing Order 188 by deleting the word “Vice-Chairperson” appearing immediately after the words “Chairperson and” and substituting therefor the words “both Vice-Chairpersons”;

92.Standing Order 181: Notice of meetings

Proposal to include text messages (SMS) as constituting delivery of a notice of a meeting.

Observation: The Committee noted that there was need to include electronic means of communication as a mode of issuing notices to Members.

Recommendation: Amend paragraph (2) by deleting the words “through the email addresses of a Member” appearing immediately after the word “circulation” and substituting therefor the words “by electronic means to a Member’s official communication address or number”

93.Standing Order 183: Sub-committees of select committees –

- (a) Delete the word “select” on the title of the Standing Order to read – Sub-committees of committees.
- (b) Include a provision that the number of Members of a sub-committee shall not be less than the quorum of the main committee.
- (c) The quorum of a sub-committee be prescribed at three (3) Members.
- (d) Provide for the reporting to the main committee by a sub-committee.

- (e) Provide for the adjournment of sub-committee sittings for lack of quorum similar to the provisions under Standing Order 185: *Adjournment for lack of quorum*.

Observation: The Committee noted that there was need to regulate the formation, membership, and responsibilities of subcommittees.

Recommendation: Amend the Standing Order by—

- (a) deleting the words “select committees” in its title;
- (b) adjournment of the meeting of a subcommittee if its quorum is not achieved within thirty minutes of the appointed time of a meeting; and regular reporting by a subcommittee, respectively.

94. Standing Order 199: Reports of select committees

- (a) In paragraph (4) introduce a provision requiring that the names of Members supporting the adoption of a committee report shall be recorded in the minutes and appended in the report as an annexure.
- (b) in paragraph (5) replace the word “report” appearing immediately after the word “dissenting” and substituting therefor the word “opinion”;
- (c) In paragraph (6) replace “minority report” with “minority opinion.”

Observation: The Committee noted that the provision did not require the names of Members supporting the adoption of a committee report shall be recorded in the minutes and appended in the report as an annexure. However, it was the view of the Committee that this ought to be dealt with administratively. Additionally, the Committee was of the view that instead of referring to the views of a section of Members of the Committee as ‘a dissenting opinion’, the term ‘minority opinion’ would more suitable.

Recommendation: Amend Standing Order 199 –

- (i) in paragraph (5) deleting the word “report” appearing immediately after the word “dissenting” and substituting therefor the word “opinion”;
- (ii) in paragraph (6) by deleting the words “minority report” and replacing them with “minority opinion”;

95. Standing Order 200: Progress reports by Select Committees

Proposal that the half yearly report by Select Committees on their activities be revised to quarterly.

Observation: The Committee noted that there was need for Committee to make more regular reports to the House on their activities.

Recommendations: Amend Standing Order 200 in paragraph (1) by deleting the words “half yearly” appearing immediately after the word “submit” and substituting therefor the word “quarterly”.

96. Standing Order 200A: Exit Reports

Proposal to amend Standing Order 200A to require each Committee to table an exit report to the Assembly at the expiry of its term on the matter transacted by the Committee including any pending business.

Observation: The Committee noted that there was need to provide for continuity on the functions of Committees on matters under their mandate. It would be important for succeeding Committee to be apprised of key achievements by the preceding Committee and also of any pending matters of concern.

Recommendation: Amend Standing Order 200A by deleting paragraph (1) and substituting therefor the following new paragraph—

“(1) The Chairperson of each Committee shall table an exit report to the Assembly at the expiry of its term.”

97.Standing Order 204: Committee on Appointments

Proposal to have the Committee on Appointments chaired by the Majority Leader and deputized by Leader of the Minority Party as the First Vice Chairperson. The Second Vice Chairperson should be elected by Members of the committee. The amendment should provide for cases of a minority Government.

Observation: The Committee noted that the Speaker who is elected by the House at the beginning of a new Parliament is best suited to Chair the Committee to ensure that the Executive is constituted in good time should parties delay in designating the Leaders of the Majority and Minority Parties after a general election. The Committee therefore ought to be chaired by the Speaker. The Membership of the committee to be capped at 21 from the current 28 Members.

Recommendation: Retain the composition of the Committee on Appointments as provided currently with reduced membership.

98.Standing Order 216: Appointment and mandate of Departmental Committees

(a) proposal to reduce the membership of departmental committees in paragraph (1)(b);

(b) delete paragraph (5)(h) as it is a repetition of (5)(g).

- (c) include examination of budget and monitoring of budget implementation as part of the mandate of committees.
- (d) Proposal to limit committees from interrogating matters that are outside their mandates or which are under active consideration by a Committee of the House.

Observation: The Committee noted that the membership of Departmental Committees did not allow for the effective and efficient discharge of parliamentary business. Additionally, the general mandate of Departmental Committees did not include oversight of the national budget and the in-year monitoring of its implementation.

Recommendation: Amend Standing Order 216 –

- (a) to reduce the membership of departmental committees from nineteen to fifteen;
- (b) to require Departmental Committees to monitor and report on the implementation of the national budget on a quarterly basis;
- (c) to delete subparagraph (5)(h).

99. Standing Order 224: Time for Petitions

Proposal to remove the time limitation for debate on Petitions.

Observation: The Committee noted that in furtherance of the dictates of Article 119 of the Constitution on the right to petition Parliament, the time limitation of the thirty minutes for debate on Petitions is restrictive and ought to be removed.

Recommendation: Delete Standing Order 224 which provides that the total time on the Order “Petitions” shall not exceed thirty minutes.

100. **Standing Order 227: Committal of Petitions**

- (a) Proposal to establish a Committee to exclusively handle Petitions to which petitions will be committed.
- (b) In paragraph (2), increase the timelines for consideration of petitions from 60 to 90 days.
- (c) Introduce a provision to allow debate on specified Petitions where necessary

Observation: The Committee noted that there was need to establish a committee to consider Petitions to the House, advise on which Petitions should be debated and to increase the period for the consideration of petitions. Establishment of the Committee would better actualize the provisions of Articles 37 and 119 of the Constitution on the right to petition Parliament.

Recommendation:

- (a) Amend the Standing Orders to insert a new Standing Order establishing a Public Petitions Committee;
- (b) Amend Standing Order 220 (1) by inserting “subject to the recommendation of the Public Petitions Committee” immediately before the word “a petition”.
- (c) Amend Standing Order 227(2) to delete the word “sixty” and replace with the word “ninety” insert a new paragraph to empower the Public Petitions Committee to recommend debate on a report on petition.

101. Standing Order 232: Presentation of Budget Policy Statement and the Debt Management Strategy

Create clarity on the presentation of the Debt Management Strategy by creating a separate Standing Order to provide for the process separately from the presentation of the Budget Policy Statement;

Observation: The Committee noted that there was need to amend Standing Order 232 to create clarity on the process of presentation of the Debt Management Strategy by creating a new Standing Order to provide for the process separately from the presentation of the Budget Policy Statement.

Recommendation: Amend Standing Order 232 to remove the process of presentation of the Debt Management Strategy from the Standing Order and effect editorial changes in paragraph (9) by deleting the words “and where necessary” appearing immediately after the words “the National Government, the Judiciary and Parliament” and the word “among” and replace with “between”.

102. Standing Order 235: Presentation of Budget Estimates and committal to Committees

Proposal to require that where the Budget and Appropriations Committee recommends any changes, variations or re-allocations in the Estimates, the Budget and Appropriations Committee shall include in its recommendations an itemized schedule outlining the proposed changes, variations or re-allocations specific to each Vote, Sub-Vote, Programme, project, target and outputs.

Observation: The Committee noted that there was need to provide sufficient information to the House during the consideration of the estimates at the

Committee of Supply. The amendment shall aid Members of Parliament especially those who are not members of the respective Departmental Committees affected by the proposed changes to make informed decisions during the consideration of every Vote and program at the Committee of Supply.

Recommendation: Amend Standing Order 235 by inserting the following new paragraph immediately after paragraph (5) —

(6) Where the Committee recommends any changes, variations or re-allocations in the Estimates, the Budget and Appropriations Committee shall include in its recommendations under paragraph (5) an itemized schedule outlining the proposed changes, variations or re-allocations specific to each Vote, Sub-Vote, Programme, Project, target and outputs.

103. Standing Order 240B: Appropriation Bill and Equalization Fund Appropriation Bill

Proposal to require that upon passage of the Appropriations Bill, the Clerk shall, as soon as practicable, certify in writing any changes made to a Vote or a programme and indicate any reallocations, increases, or decreases made by the National Assembly to a Vote, Sub-Vote, Programme, project, targets and outputs. Standing Order 240B should further be amended to mandate the Budget and Appropriations Committee to ensure that any reallocations, increases, or decreases made by the National Assembly to the Estimates with respect to any Vote, Sub-Vote, Programme, project, targets and outputs are incorporated in the republished final approved budget books.

Observations: The Committee noted that in order to improve transparency in budgeting and entrench the exercise of the power to review the estimates, the amendment seeks to reflect the changes made by the House during the approval of the Appropriations Bill by capturing the said changes in a detailed way at the level of Vote, program, project, target as well outputs.

The Committee further noted that apart from being a record of the decisions of the House, the information shall be communicated to the National Treasury promptly to ensure correspondence between the changes intended by the House and the actual implementation of the budget by the MDAs. The information shall also assist the relevant Committees in the oversight of expenditure during budget implementation.

Recommendation: Amend Standing Order 240B by inserting the following new paragraphs immediately after paragraph (4)—

- (5) Upon passage of the Appropriations Bill, the Clerk shall, as soon as practicable, certify in writing any changes made to a Vote or a programme and indicate any reallocations, increases or decreases made by the House to a Vote, Sub-Vote, Programme, project, target or outputs to facilitate the Cabinet Secretary responsible for finance to republish the final approved Estimates.
- (6) Following the enactment of the Appropriations Act, the Budget and Appropriations Committee shall ensure that any reallocations, increases, or decreases made by the House to the Estimates with respect to any Vote, Sub-Vote, Programme, project, targets and outputs are incorporated in the republished final approved budget books.

104. Standing Order 243: Procedure on Supplementary Estimates

Proposal to provide clarity on the procedure for consideration of the supplementary estimates by the Budget and Appropriations Committees in order to ensure compliance with the requirements of Article 223 of the Constitution and the Public Finance Management Act or any other law and the principles and values of public finance as set out in Article 201 of the Constitution.

Observation: The Committee noted that there was need for Departmental Committees and the House to verify withdrawals given that the approval is sought after monies have been withdrawn and spent. This would ensure compliance with the conditions set out in Article 223 of the Constitution.

The Committee further noted that the Supplementary Budget should solely deal with provisions seeking approval for money already withdrawn and spent by the National Government in line with Article 223 of the Constitution. The amendment also sought to provide for Committees to access documents involved in authorizing withdrawals and spending of monies prior to approval by the National Assembly.

Recommendation: Amend Standing Order 243 to provide that –

- (a) The supplementary budget submitted by the national government shall contain justifications and necessary financial documents as evidence for the money spent and a separate schedule for expenditure made under Article 223 of the Constitution and any ordinary re-allocations made to any vote among other things.
- (b) The Report of the Budget and Appropriations Committee to the House on Supplementary Estimates shall include an examination of the compliance of the proposed Supplementary Estimates with

the conditions set out in Article 223 of the Constitution and any other law; the principles and values of public finance under Article 201 of the Constitution and shall only contain provisions for money already withdrawn and spent by the National Government in accordance with Article 223 of the Constitution.

- (c) Further, require the report of the Budget and Appropriations Committee to contain separate schedules for expenditure made under Article 223 of the Constitution.
- (d) Require the Departmental Committees in examining the Supplementary Estimates and making recommendations to the Budget and Appropriations Committee to also comply with the requirements of the Standing Order 243(3).
- (e) Mandate the Clerk to maintain a specific register for noting any requests for approvals made by the Cabinet Secretary responsible for finance pursuant to Article 223 of the Constitution and facilitate the timely tabling of all such requests.

105. Standing Order 245: Consideration of Finance Bill

In paragraph (4) by deleting the words “ninety days after passing the Appropriation Bill,” and substituting therefor the words “30th June each year,”.

Observation: The Committee noted that there was need to harmonize the timeline for passage of the Finance Bill by aligning the Standing Order with the timeline spelt out in the Public Finance Management Act, 2012 which provides that the Finance Bill shall be passed not later than 30th June of each year.

Recommendation: Amend Standing Order 245 in paragraph (4) by deleting the words “ninety days after passing the Appropriation Bill,” and substituting therefor the words “30th June each year,”

106. Standing Order 248: Hansard Reports

Provide for verbatim reports of committee proceedings within 72 hours where a committee is taking evidence. Instances where this rule shall not apply will be provided for by the Speaker.

Observation: The Committee noted that there was need to provide for the production of verbatim reports of Committee proceedings.

Recommendation: Amend Standing Order 248 to require publication of a verbatim report of all proceedings of a Committee of the House where evidence is given within seventy-two hours, unless the Speaker is satisfied that this is rendered impossible by some emergency.

107. Standing Order 249: Secret or personal matters

Amend the Standing Order to include proceedings of committees and not just plenary.

Observation: The Committee noted that there was need to ensure that matters that are purely secret or personal are not only excluded from the journals of the House but also Committee Proceedings.

Recommendation: Amend Standing Order 249 by inserting the words “and its committees” immediately after the words “proceedings of the House”.

108. Standing Order 250: Broadcast of House Proceedings

Provide for the broadcast of the proceedings of committees.

Observation: The Committee noted that there was need to anchor the broadcast of proceedings of Committees in the Standing Orders.

Recommendation: Amend Standing Order 250 in paragraphs (1) and (2) by inserting the words “and its committees” immediately after the words “the House”.

109. Standing Order 252: General provisions on access to the House

A proposal to require persons to request for in-camera sittings prior to their appearance before Committees of the House.

Observation: The Committee observed that the Standing Order did not require a person who proposes to be heard in-camera to make prior request to a Committee of the House and may lead to arbitrary exclusion of members of the public and the press from committee proceedings. This may contravene the provisions of Article 118 of the Constitution which requires Parliament to conduct its business in an open manner and to facilitate public participation and involvement in its business.

Recommendation: Amend the Standing Order to require any person who proposes to be heard in-camera to make a written request to a Committee of the House at least 24 hours before their appearance. Additionally, require a Committee to whom a request is made for an in-camera sitting to consider the request taking into account the public interest and to report to the House each time they accede to such requests and the reason for their decision.

110. Departmental Committees

Proposal to have five (5) additional Departmental Committees to increase efficiency of current structures.

Observation: The Committee noted that the current number of Departmental Committees did not allow for the effective and efficient discharge of parliamentary business. There was therefore need to reconsider the mandate of the various Departmental Committees as compared to their performance during the term of Parliament; and provide for increased specialization of the Committees of the House.

Recommendation: Amend the Second Schedule to the Standing Orders to split the existing Departmental Committees and reorganize the mandates of the committees as follows –

Committee title	Subject matter
Administration & Internal Affairs	Home affairs, internal security – including police services and coast guard services, public administration, immigration and citizenship.
Agriculture & Livestock	Agriculture, livestock, food production and marketing.
Communication, Information & Innovation	Communication, information, media and broadcasting (except for broadcast of parliamentary proceedings), information technology, communication technology, including development and advancement of technology, data protection and privacy, cyberspace and cyber-security, artificial intelligence, block-chain technology, and other emerging technologies.
Defence, Intelligence & Foreign Relations	Defence, intelligence, foreign relations, diplomatic and consular services, international boundaries including territorial waters, international relations, and veteran affairs.
Education	Education, training, curriculum development, and research.
Energy	Fossil fuels exploration, development, production, maintenance and distribution, nuclear energy, clean energy and regulation of energy.
Environment, Forestry & Mining	Climate change, environment management and conservation, forestry, mining and natural resources, pollution, waste management.

Finance & National Planning	Public finance, public audit policies, monetary policies, financial institutions (excluding those in securities exchange), economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
Health	Health, medical care and health insurance including universal health coverage.
Housing, Urban Planning & Public Works	Housing, public works, urban planning, metropolitan affairs, housing development and built environment.
Justice and Legal Affairs	Judiciary, tribunals, access to justice, public prosecutions, ethics, integrity & anti-corruption, correctional services, community service orders and witness protection, Constitutional affairs, sovereign immunity, elections including referenda, human rights, political parties, the State Law Office, including, insolvency, law reform, public trusteeship, marriages and legal education.
Labour	Labour including migrant labour, human capital and remuneration, trade union relations and public service.
Lands	Matters related to lands and settlement including, land policy, land transactions, survey & mapping, land adjudication, settlement, land registration, land valuation, administration of community and public land and land information & management system
Regional Development	Regional development, including regional development authorities; refugee affairs; devolution; inclusive growth; arid and semi-arid areas; disaster risk management; drought, famine and disaster response; and post-disaster recovery and rehabilitation.
Social Protection	Social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
Sports & Culture	Sports, culture, language, creative economy including promotion of music, arts, film promotion and development, national heritage and betting & lotteries.
Tourism & Wildlife	Tourism & tourism promotion and management, tourism research and wildlife management.

Trade, Industry and Cooperatives	Trade, including securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion & development including micro, small & medium enterprises (MSMEs), and small and medium enterprises (SMEs), intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.
Transport & Infrastructure	Transport, including non-motorized transport, construction and maintenance of roads, rails, air and marine transport, seaports and national integrated infrastructure policies and programmes and transport safety.
Water, Fisheries & Irrigation	Use and regulation of water resources, irrigation, fisheries development including promotion of aquaculture, fish farming, marine fisheries and blue economy.

111. Tenure of Committees

Proposal to have a three- and two-year tenure for the following Committees–

- a) *Public Accounts Committee (S.O. 205),*
- b) *Special Funds Account (S.O. 205A),*
- c) *Pubic Investments Committee (S.O. 206),*
- d) *Budget & Appropriations Committee (S.O. 207),*
- e) *Committee on Implementation (S.O. 209),*
- f) *Committee on Delegated Legislation (S.O. 210),*
- g) *Committee on Regional Integration (S.O. 212),*
- h) *Committee on National Cohesion & Equal Opportunity (S.O. 212C),*
- i) *Committee on Parliamentary Broadcasting & Library (S.O. 212D);*

New Committees

- j) *Public Petitions Committee*
- k) *Public Debt and Committee*
- l) *Decentralized Funds Accounts Committee*

Observations: The Committee noted that there was need to split the tenure of the non-departmental Committees for purposes of efficiency.

Recommendation:

- (a) Amend Standing Orders 205, 205A, 206, 207, 209, 210, 212, 212C and 212D to include a paragraph requiring the Committee constituted immediately following a general election to serve for a period of three calendar years and the Committee constituted thereafter to serve for the remainder of the parliamentary term.
- (b) Provide that the *Public Petitions Committee*, the *Public Debt Committee* and the *Decentralized Funds Accounts Committee* constituted immediately following a general election to serve for a period of three calendar years and the Committee constituted thereafter to serve for the remainder of the parliamentary term.

112. Proposal for establishment of a Public Debt Committee

Proposal to amend the Standing Orders to establish a Committee to be responsible for oversight of public debt, examination of all matters relating to debt guarantees by the National Government.

Observation: The Committee noted that there was need to establish a Committee to be responsible for examination of all matters related to Public Debt and examination of all matters relating to debt guarantees by the National Government. As it is presently, matters of public debt are examined by the Budget and Appropriations Committee but only in respect to the Debt Management Strategy. The Committee also noted that there was no Committee exclusively responsible for examination of matters relating to oversight of public private partnership programmes by the national government. Consequently, there was need to create a Committee to exclusively examine matters relating to public debt, oversight of

consolidated fund services excluding audited accounts among other related functions.

Recommendation: Amend the Standing Orders to establish a Public Debt Committee to be responsible for —

- (a) oversight of public debt and guarantees pursuant to Article 214 of the Constitution ;
- (b) examination of matters relating to debt guarantees by the National government;
- (c) oversight of consolidated fund services excluding audited accounts;
- (d) examination of reports on the status of the economy;

113. Proposal for Review of the Mandate of the Special Funds Accounts Committee

Proposal to amend Standing Order 205A which establishes the Special Funds Accounts Committee to provide clarity on its mandate by providing that its functions shall only extend or apply in respect to the examination of reports of Auditor General on funds established by statute or by subsidiary legislation, except the examination of the accounts of the National Government Constituencies Development Fund and its Board; the National Government Affirmative Action Fund and its Board and the Equalization Fund and its Board.

Observation: The Committee noted that in order to create efficiency on the discharge of the functions of the Special Funds Accounts Committee, there is need to delineate its mandate and exclude decentralized Funds which are the National Government Constituencies Development Fund; the National Government Affirmative Action Fund and the Equalization Fund from its purview and establish a new Committee to be responsible for these Funds. The splitting of the mandate of the Committee is intended to ease

the work load of the Special Funds Accounts Committee and improve on its efficiency.

Recommendation: Amend Standing Order 205A to delineate the mandate of the Special Funds Accounts Committee as follows:

- (1) The Committee shall be responsible for the examination of reports of Auditor General on –
 - (a) funds established by statute or by subsidiary legislation, except Funds under Standing Order 205B (Decentralized Funds Accounts Committee);
 - (b) the Equalization Fund; and
 - (c) the Equalization Fund Advisory Board.
- (2) The Committee shall not examine matters of policy or day-to-day administration of the special funds.
- (3) Allow the Speaker from time to time, publish a schedule specifying the funds falling within the mandate of the Committee.

114. Proposal for establishment of a Decentralized Funds Accounts Committee

Proposal amend the Standing Orders to establish a Decentralized Funds Accounts Committee to be responsible for the examination of the reports of the Auditor General on the accounts of –

- a) The National Government Constituencies Development Fund;*
- b) The National Government Constituencies Development Fund Board;*
- c) The National Government Affirmative Action Fund; and*
- d) The National Government Affirmative Action Fund Board;*

Observation: The Committee noted that there was need to establish a new Committee to be responsible for examination of reports of Auditor General on

the accounts of the National Government Constituencies Development Fund and its Board; the National Government Affirmative Action Fund and its Board and the Equalization Fund and its Board. The creation of this new Committee shall create efficiency in the examination of the accounts of the Funds and ease the workload on the Special Funds Accounts Committee which is presently to also examine the accounts of these Funds.

Recommendation: Amend the Standing Orders to –

- (i) establish a Decentralized Funds Accounts Committee to be responsible for the examination of the reports of the Auditor General on the accounts of –
 - a) *The National Government Constituencies Development Fund;*
 - b) *The National Government Constituencies Development Fund Board;*
 - c) *The National Government Affirmative Action Fund; and*
 - d) *The National Government Affirmative Action Fund Board.*
- (ii) parties other than parliamentary parties forming the national government to have a majority membership.

115. Proposal to review and split the mandate of the Public Investments Committee

Proposal amend Standing Order 206 to split the mandate of the Public Investments Committee into three sectoral areas or functions which are Commercial Affairs and Energy, Social Services and Administration and Agriculture and Governance and Education and create three Committees to be responsible for each of these three sectoral areas or functions.

Observation: The Committee noted that there was need to improve on the efficiency of the Public Investments Committee as currently established. As

it is presently, the Committee has a huge workload that has created backlog in performance of its functions. The splitting of its mandate into three and subsequent creation of two additional Committees is geared towards creating efficiency in performance of its functions. The Committee however noted that there would be need to create a sunset clause to provide that at the end of each Assembly the Committee should revert to its current form if need be. It is expected that the splitting of the mandate into three shall ease the workload and clear the backlog on the examination of the reports and accounts of public investments.

Recommendation: Amend Standing Order 206 to establish three Committees as follows –

(1) Public Investments Committee on Governance and Education

The Committee shall, with regard to the education, defence, governance, justice and law and order sectors be responsible for examination of the reports and accounts of public investments and the reports, if any, of the Auditor General on public investments.

(2) Public Investments Committee on Commercial Affairs and Energy

The Committee shall, with regard to the energy, environment, general economic and commercial affairs sectors be responsible for examination of the reports and accounts of public investments and the reports, if any, of the Auditor General on public investments; and

(3) Public Investments Committee on Social Services, Administration and Agriculture

The Committee shall, with regard to the agriculture, public administration, health, and social protection sectors be responsible for

examination of the reports and accounts of public investments and the reports, if any, of the Auditor General on public investments.

The Chairpersons of the Committees to be elected from parties other than parliamentary parties forming the national government.

116. Proposal to provide for a procedure for Members to pay tributes

Proposal to amend the Standing Orders to provide for a procedure for the Members to make tributes in the House following the demise of the President or the Deputy President, a retired President or Deputy President, the Chief Justice or retired Chief Justice, Speaker of a House of Parliament or a retired Speaker or a Member.

Observation: The Committee noted there is need to provide for the procedure of paying tributes by the Members in the House following the demise of the President or the Deputy President, a retired President or Deputy President, the Chief Justice or retired Chief Justice, Speaker of a House of Parliament or a retired Speaker or a Member.

Recommendation: Insert a New Standing Order to provide that the Speaker shall report to the assembled House the demise of the President or the Deputy President; a retired President or Deputy President; the Chief Justice or a retired Chief Justice; the Speaker of a House of Parliament or a retired Speaker; or a Member.

The Standing Order should further allow Members to make short speeches or pay tribute following a report made under the Standing Order and allow a Member with leave of the Speaker, to report the demise of a former Member or other national leader. Additionally, the Standing Orders should empower the Speaker to summon the House for a Special Sitting to report the demise of the President or the Deputy President or a

retired President or Deputy President. Further, Standing Order 52 should be amended to provide that tributes in the House shall be made by way of an exceptional Motion which may be moved without.

117. Proposal to include a procedure for the selection of Members to the committee responsible for privilege and conduct of Members

Proposal to provide for a criteria for the selection of Members to serve in the committee responsible for privilege and conduct of Members to accord with best practice in other comparative jurisdictions.

Observation: The Committee observed that there was need to provide for the procedure of selecting Members to the Committee responsible for privileges in view of the mandate of the Committee. In comparative jurisdictions, Members to the committee responsible for privilege and conduct of Members are selected from high-ranking members with exceptional service to the House, as well as consideration of previous professional service and experience.

Recommendation: Amend the Standing Orders to include considerations to be made in selecting Members to the committee responsible for privileges.

118. Procedure of monitoring of the Budget Implementation

Proposal to provide for a procedure of monitoring of budget implementation.

Observation: The Committee noted that the Standing Orders do not provide for monitoring of the implementation of the National Budget by the Budget and Appropriations Committee which therefore limits the oversight role of the House over the national budget. The Committee hence

noted that there was need to amend the Standing Orders to create mechanisms through which the Budget and Appropriations Committee and Departmental Committees can monitor the implementation of the national budget.

Recommendation: Amend the Standing Orders to provide for a procedure for the Budget and Appropriations Committee to examine the implementation of the National Budget by among other things reviewing quarterly reports submitted by the Cabinet Secretary responsible for finance pursuant to the Public Finance Management Act. The Standing Orders should also mandate each Departmental Committee to also examine and report on the expenditures and non-financial performance of the Budget of the national government.

119. Proposal for establishment of a Committee on Diaspora and Migration

Proposal to establish a Committee on diaspora and migration matters to be responsible for, *inter alia*, the protection of the rights of Kenyans and their families in the diaspora, matters relating to diaspora remittances and linkage to economic development and socio-cultural inclusion, examining structures for collaboration and connections for Kenyans in the diaspora, and diaspora suffrage.

Observation: the Committee noted that there was need to create a Committee to exclusively handle matters relating to Kenyans in the diaspora and the attendant facilitation of their rights to participate in the social, economic and political development of the country.

Recommendation: Amend the Standing Orders to establish a select committee on diaspora affairs and migration.

CHAPTER 3: CONCLUSION AND RECOMMENDATION

120. The Committee considered all the proposals from stakeholders including additional views from the Kenya Parliamentary Journalists Association (KPJA).
121. In making the recommendations, the Committee considered the practice in comparative jurisdictions and well as emerging trends in the conduct of the business of the House during this term of Parliament. It is hoped that this review of the Standing Orders will assist the Thirteenth House to effectively and efficiently discharge its mandate of legislation, representation and oversight.
122. Attached to this report is a schedule of each proposed amendment for consideration by the House.

Recommendations

123. **NOW THEREFORE**, in line with the provisions of PART XXIX (*Amendment of the Standing Orders*), the Procedure and House Rules Committee recommends –
- (i) **THAT**, pursuant to the provisions of Standing Order 264, the House approves the proposed amendments to the Standing Orders as contained in the First Schedule to the Report;
 - (ii) **THAT**, pursuant to the provisions of Standing Order 265, the House resolves that the amendments made to the Standing Orders shall commence upon the expiry of the term of the Twelfth Parliament; and

- (iii) THAT, despite paragraph (ii), the House resolves that the proposed Standing Order 259F(5) (*Members' Biodata and Roll*) shall take effect immediately.
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ANNEXURES

LIST OF ANNEXURES

1. First Schedule: Proposed Amendments to the Standing Orders
2. Report Adoption List
3. Minutes of the proceedings of the Committee
4. Speaker's Communication on Review of the Standing Orders
5. Call to the public on submission of memoranda
6. Submissions
7. Speaker's Communication of 9th June 2020 on Entitlement of Slots in Select Committees and Discharge of Members from Committees

ANNEXURE 1

First Schedule: Proposed Amendments to the Standing
Orders

FIRST SCHEDULE
PROPOSED AMENDMENTS TO THE STANDING ORDERS

STANDING ORDER 2

THAT, Standing Order 2 be amended—

- (a) in the definition “allotted day” by inserting the words “the debate on the President’s address to Parliament as provided under Part V of the Standing Orders or” immediately after the words “set aside for”;
- (b) by deleting the definition “Majority Whip” and substituting therefor the following new definition—

“Majority Party Whip” means the Member designated as the Party Whip by the Majority Party; has the meaning assigned to it under Standing Order 19A;
- (c) by deleting the definition “Minority Whip” and substituting therefor the following new definition—

“Minority Party Whip” means the Member designated as the Party Whip by the Minority Party;
- (d) by deleting the definition “Parliamentary party” and substituting therefor the following new definition—

“Parliamentary party” means a party recognized by the Speaker as a parliamentary party pursuant to Standing Order 20A (*Recognition of Parliamentary Parties and Designation leaders and Whips*);
- (e) by deleting the definition “Party Whip” and substituting therefor the following new definition—

“Party Whip” means a Member designated by a parliamentary party as its party whip for the purposes of the transaction of the business in the House and includes the Whip of the Majority Party and the Whip of the Minority Party;
- (f) in the definition “sitting” by deleting the words “but two or more periods of sitting within the normal period of one sitting, or within an equivalent period, shall not rank as more than one sitting” appearing immediately after the words “equivalent period”;
- (g) by inserting the following new definition in proper alphabetical sequence—

“Division list” means a list prepared by the Clerk containing names of Members of Parliament arranged in the alphabetical order of—

 - (a) their constituencies; and
 - (b) the special interests represented by the Members nominated under Article 97(1)(c) of the Constitution.
- (h) in paragraph (2) by inserting the words “or parliamentary offices; by electronic means to the Members’ official communication addresses or telephone numbers;” immediately after the words “pigeon holes”;

Justification:

1. To include the days reserved for debate of the President’s Address under the definition “allotted day”;
2. To define and harmonize the use of the terms “Majority Party Whip” and “Minority Party Whip”;

3. To amend the definitions of “Parliamentary Party” and “Party Whip” for purposes of clarity;
4. To define the term “Division List” as used within the Standing Orders; and
5. To provide for the use of electronic means to communicate with Members.

NEW STANDING ORDER 2B

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 2A—

Clerk to obtain coalition agreements.

2B. The Clerk shall obtain from the Registrar of Political Parties a certified copy of any coalition agreement entered into by two or more parties in the National Assembly for purposes of ascertaining the relative majorities in the House and facilitating the transaction of the business of the House.

Justification: To require the Clerk to obtain any coalition agreements that may affect the transaction of the business of the House for use by the Speaker is giving guidance as and when it becomes necessary.

STANDING ORDER 3

THAT, The Standing Orders be amended by deleting Standing Order 3 and substituting therefor the following new Standing Order—

Proceedings on assembly of a new House

3. (1) On the first sitting of a new House pursuant to the President’s notification under Article 126(2) of the Constitution, the Clerk shall—

- (a) read the notification of the President as published in the *Gazette*;
- (b) lay a list of the names of the persons elected as Members on the Table of the House; and
- (c) administer the Oath or Affirmation of Office provided for in the Third Schedule to the Constitution to all Members-elect present in the House in the order set out in paragraph (3).

(2) Pursuant to the provisions of Article 74 of the Constitution, no person shall assume or perform any functions of the office of a Member before taking and subscribing to the Oath or Affirmation of Office provided for under paragraph (1).

(3) The Clerk shall administer the Oath or Affirmation of Office to Members-elect in alphabetical order using the following order of precedence—

- (a) A Member-elect who has served in a House of Parliament as—
 - (i) Speaker;
 - (ii) Leader of the Majority Party;
 - (iii) Leader of the Minority Party; or
 - (iv) Deputy Speaker;
- (b) Members-elect with the longest cumulative period of service in the National Assembly;

- (c) Members-elect with the longest cumulative period of service in the National Assembly, the Senate and the East African Legislative Assembly;
 - (d) Members-elect with the longest cumulative period of service in the Senate;
 - (e) Members-elect with the longest cumulative period of service in the East African Legislative Assembly;
 - (f) all other Members-elect.
- (4) When the Clerk is administering the Oath or Affirmation of Office to Members-elect and before the Clerk has administered the Oath or Affirmation of Office to the Speaker, any question arising in the House shall be determined by the Clerk who shall, during that period, preside over the House exercise the powers of the Speaker.
- (5) At any other time, the Oath or Affirmation of Office shall be administered by the Speaker immediately after prayers.
- (6) When a Member-elect first attends to take his or her seat following a by-election, the Member-elect shall, before taking his or her seat, be escorted to the Table by two Members and be presented by them to the Speaker who shall then administer to the Member-elect the Oath or Affirmation of Office.
- (7) Notwithstanding Standing Order 30 (*Hours of Meeting*), on the day when the election of the Speaker is to be conducted after a general election, the sitting of the House shall commence at 9.00 am until conclusion of the business listed in the Order Paper.

Justification: To recast and rearrange the provision for logical flow and to put into consideration the order of precedence to be observed in the National Assembly as provided for under Article 108(4) of the Constitution.

STANDING ORDER 4

THAT, the Standing Order be amended by deleting Standing Order 4 and substituting therefor the following new Standing Order—

Election of Speaker after a General Election

4. A Speaker shall be elected when the House first meets after a General Election and before the House proceeds with the dispatch of any other business, except the administration of the Oath or Affirmation of Office to Members present.

Justification: To recast the title of the Standing Order for the logical flow of the provisions and to delete paragraphs (2) and (3) for reintroduction in their appropriate Standing Order that deals with a vacancy in the office of the Speaker.

STANDING ORDER 5

THAT, Standing Order 5 be amended—

(a) by deleting paragraph (1) and substituting therefor the following new paragraph—

(1) Upon the President notifying the place and date for the first sitting of a new Assembly pursuant to Article 126(2) of the Constitution, the Clerk shall by notice in the Gazette—

- (a) notify that fact and invite interested persons to submit their nomination papers for election to the office of Speaker; and
- (b) appoint a nomination day and designate the place and period for the receipt of nomination papers.
- (b) in paragraph (3), by deleting the word “them” appearing immediately after the words “declaration by” and substituting therefor the words “the Members”;
- (c) by inserting the following new paragraph immediately after paragraph (3) —
 (3A) The nomination paper of a candidate under paragraph (3) shall be in the form prescribed in the Ninth Schedule.
- (d) in paragraph (6) by deleting the words “meeting” appearing immediately after the words “before the” and substituting therefor the word “sitting”;

Justification:

- 1. To require the Clerk to appoint a nomination day and designate a place and period within which candidates may present nomination papers for election as Speaker; and
- 2. To anchor the nomination form to be used by candidates as a Schedule in the Standing Orders.

STANDING ORDER 6

THAT, Standing Order 6 be amended in paragraph (4) by deleting the words “and destroy” appearing immediately after the word “cancel”;

Justification: Standing Order 10 requires the Clerk to maintain custody of the ballot papers after the election as the ballots may also be required in case of a dispute.

STANDING ORDER 8

THAT, Standing Order 8 be amended by deleting the word “issued” appearing immediately after the words “ballot papers” and substituting therefor the word “printed”;

Justification: For consistency. The word “printed” is used in reference to ballot papers.

STANDING ORDER 10

THAT, Standing Order 10 be amended by inserting the words “and any spoilt ballot papers” immediately after the word “Speaker”;

Justification: To require the Clerk to retain custody of any spoilt ballot papers after the election of a Speaker.

STANDING ORDER 12A

THAT, Standing Order 12A be amended by—

- (a) deleting paragraph (1) and substituting therefor the following new paragraph—
 “(1) The office of the Speaker or Deputy Speaker shall become vacant if the office holder resigns from office in a letter addressed the House as contemplated under 106(2)(d) of the Constitution.”
- (b) inserting the following new paragraph immediately after paragraph (1)—

“(1A) A letter under paragraph (1) shall be submitted to the Clerk.”

Justification: To align the Standing Order with the provisions of Article 106 of the Constitution.

NEW STANDING ORDER 12C

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 12A—

Vacation from Office under Article 103 of the Constitution

12B. (1) The office of the Speaker or the Deputy Speaker shall become vacant if the office holder vacates office under Article 103 of the Constitution.

(2) If the office of Speaker falls vacant at any time before the expiry of the term of Parliament, no business shall be transacted by the House until the election of a new Speaker.

(3) The Deputy Speaker shall preside over the election under paragraph (1) but if the Deputy Speaker is a candidate, a Member elected by the House in accordance with Article 107 of the Constitution shall preside.

Justification: To provide for vacation from office by a Speaker or Deputy Speaker and to reintroduce the deleted Standing Order 4(2) and 4(3) for logical flow of the Standing Orders.

STANDING ORDER 16

THAT, Standing Order 16 be amended by deleting paragraph (1) and substituting therefor the following new paragraph—

“(1) There shall be a panel to be known as the Chairperson’s Panel which shall comprise six Members to be known, respectively, as the First, Second, Third, Fourth, Fifth and Sixth Chairperson of Committees and who shall be entitled to exercise all the powers vested in the Chairperson of Committees.”

Justification: To increase the members of the Chairperson’s pane from four to six.

STANDING ORDER 19

THAT, the Standing Orders be amended by deleting Standing Order 19 and substituting therefor the following new Standing Order—

Party Leaders and order of precedence

19. (1) Pursuant to Article 108 of the Constitution, there shall be a Leader of the Majority Party and a Leader of the Minority Party.

(2) The Leader of the Majority Party shall be the person who is the Leader in the National Assembly of the largest party or coalition of parties.

(3) The Leader of the Minority Party shall be the person who is the Leader in the National Assembly of the second largest party or coalition of parties.

(4) The following order of precedence shall be observed in the National Assembly—

- (a) the Speaker of the National Assembly;
 - (b) the Leader of the Majority Party; and
 - (c) the Leader of the Minority Party.
- (5) The Speaker shall facilitate the Leader of the Majority Party and the Leader of the Minority Party in the discharge of the business of the House on behalf of their respective parties or coalition of parties in the National Assembly.

Justification:

1. To establish the offices of the Leader of the Majority Party and the Leader of the Minority Party and prescribe the Order of precedence in the House in line with Article 108 of the Constitution;
2. To require the Clerk to facilitate the discharge of House Business by the two Leaders on behalf of the Majority and Minority Parties.

NEW STANDING ORDER 19A

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 19—

Election and removal of the Leader of the Majority Party and Deputy Leader of the Majority Party

19A. (1) The largest party or coalition of parties in the National Assembly shall elect—

- (a) a member of the National Assembly belonging to the party or coalition of parties to be the Leader of the Majority Party;
- (b) a member of the National Assembly belonging to the party or coalition of parties to be the Deputy Leader of the Majority Party.

(2) In electing members under paragraph (1), the largest party or coalition of parties in the National Assembly shall take into account—

- (a) any existing coalition agreement entered into pursuant to the Political Parties Act; and
- (b) the need for gender balance.

(3) The Majority Party Whip shall communicate the name of the Members elected under paragraph (1) to the Speaker in writing on behalf of the Majority Party.

(4) The Speaker shall, as soon as practicable following receipt of the names under paragraph (3), convey the information to the assembled House, if the House is sitting, or notify Members, if the House is not sitting.

(5) A Member of the largest party or coalition of parties may propose the removal of a Member elected under paragraph (1) by submitting a motion for consideration by the largest party or coalition of parties together with the names and signatures of at least a quarter of all the Members of the largest party or coalition of parties in support.

(6) A Member elected under paragraph (1) may be removed by a majority of votes of all Members of the largest party or coalition of parties in the National Assembly.

(7) The Majority Party Whip shall, upon a decision being made by the largest party or coalition of parties, notify the Speaker in writing of the decision of the largest party or coalition of parties to remove a Member elected under paragraph (1) and submit—

- (a) the minutes of the meeting at which the decision was made by the largest party or coalition of parties; and
- (b) the names and signatures of the Members who resolved to remove the Member at the meeting.

(8) Upon receipt of the notification and the documents under paragraph (7) and confirmation that the threshold for removal has been met, the Speaker shall notify the House of the decision of the largest party or coalition of parties and the office of a member elected under paragraph (1) shall fall vacant.

Justification: To enhance the process of election and removal from office of the Leader and Deputy Leader of the Majority Party. A Member seeking to remove the Leader or Deputy Leader shall file a motion with the Party supported by at least one-quarter of the Members of the Party. When communicating a decision to remove the Leader or Deputy, the Whip must attach the minutes of the meeting and the names and signatures of the Members who attended and resolved to remove the Leader or Deputy.

STANDING ORDER 20

THAT, the Standing Orders be amended by deleting Standing Order 20 and substituting therefor the following new Standing Order—

Election and removal of the Leader of the Minority Party and Deputy Leader of the Minority Party

20. (1) The second largest party or coalition of parties in the National Assembly shall elect—

- (a) a member of the National Assembly belonging to the party or coalition of parties to be the Leader of the Minority Party;
- (b) a member of the National Assembly belonging to the party or coalition of parties to be the Deputy Leader of the Minority Party.

(2) In electing members under paragraph (1), the second largest party or coalition of parties in the National Assembly shall take into account—

- (a) any existing coalition agreement entered into pursuant to the Political Parties Act; and
- (b) the need for gender balance.

(3) The Minority Party Whip shall communicate the name of the Members elected under paragraph (1) to the Speaker in writing on behalf of the Minority Party.

(4) The Speaker shall, as soon as practicable following receipt of the names under paragraph (3), convey the information to the assembled House, if the House is sitting, or notify Members, if the House is not sitting.

(5) A Member of the second largest party or coalition of parties may propose the removal of a Member elected under paragraph (1) by submitting a motion for consideration by the second largest party or coalition of parties together with the names and signatures of at least a quarter of all the Members of the second largest party or coalition of parties in support.

(6) A Member elected under paragraph (1) may be removed by a majority of votes of all Members of the second largest party or coalition of parties in the National Assembly.

(7) The Minority Party Whip shall forthwith, upon a decision being made by the second largest party or coalition of parties, notify the Speaker in writing of the decision of the largest party or coalition of parties to remove a Member elected under paragraph (1) and submit—

- (a) the minutes of the meeting at which the decision was made by the second largest party or coalition of parties; and
- (b) the names and signatures of the Members who resolved to remove the Member at the meeting.

(8) Upon receipt of the notification and the documents under paragraph (7) and confirmation that the threshold for removal has been met, the Speaker shall notify the House of the decision of the second largest party or coalition of parties and the office of a member elected under paragraph (1) shall fall vacant.

Justification: To enhance the process of election and removal from office of the Leader and Deputy Leader of the Minority Party. A Member seeking to remove the Leader or Deputy Leader shall file a motion with the Party supported by at least one-quarter of the Members of the Party. When communicating a decision to remove the Leader or Deputy, the Whip must attach the minutes of the meeting and the names and signatures of the Members who attended and resolved to remove the Leader of Deputy.

NEW STANDING ORDER 20A

THAT, the Standing Order be amended by inserting the following new Standing Order immediately after Standing Order 20—

Recognition of Parliamentary Parties and Designation leaders and Whips

20A (1) The Speaker shall recognize a party or coalition of parties consisting of not less than five percent of the membership of the National Assembly as a parliamentary party;

(2) Subject to Standing Order 19A (*Election and removal of the Leader of the Majority Party and Deputy Leader of the Majority Party*) and Standing Order 20 (*Election and removal of the Leader of the Minority Party and Deputy Leader of the Minority Party*) a parliamentary party shall designate from among its Members—

- (a) the leader of the party in the Assembly and notify the speaker, in writing, of the name of the Member.
- (b) a party whip and a deputy party whip for the purposes of the transaction of the business in the House.

(3) The name of the Members designated as party whips shall be communicated to the Speaker in writing by—

- (a) the Leader of the Majority Party on behalf of the Majority Party;
- (b) the Leader of the Minority Party on behalf of the Minority Party; or
- (c) the leader of a parliamentary party in the National Assembly in case of a parliamentary party that is not part of a coalition forming the Majority Party or the Minority Party.

(4) A decision of a parliamentary party replacing its whip or deputy whip shall be communicated to the Speaker in writing by—

- (a) the Leader of the Majority Party on behalf of the Majority Party;

- (b) the Leader of the Minority Party on behalf of the Minority Party; or
- (c) the leader of the parliamentary party in the National Assembly in case of a parliamentary party that is not part of a Coalition forming the Majority Party or the Minority Party.

(3) The Speaker shall, as soon as practicable following receipt of the names under paragraphs (2) and (3) or the decision under paragraph (4), convey the information to the assembled House if the House is sitting or notify Members if the House is not sitting.

Justification: To provide for the recognition of parliamentary parties and to require parliamentary parties, other than the Majority and Minority Parties, to designate their leader in the House and their Whip and Deputy Whip.

STANDING ORDER 29

THAT, Standing Order 29 be amended by inserting the following new paragraph immediately after paragraph (5)—

(6) Where the House holds a special sitting on any day between two of its sessions, the sitting shall be deemed to have been held in the session immediately preceding the sitting.

Justification: To provide for the Session in which a special sitting that is held between two ordinary sessions of the House will fall in.

STANDING ORDER 42A

THAT, Standing Order 42A be amended by inserting the following new paragraph, immediately after paragraph (6)—

(7) Where the Minority Party is the party forming the National Government, the duties under paragraph (5) and (6) shall be undertaken by the Leader of the Minority Party.

Justification: To provide for instances where the Leader of the Minority Party to undertake the duties relating to Questions where the Minority Party is the Party forming national Government.

STANDING ORDER 42B

THAT, Standing Order 42B be amended by inserting the following new paragraph immediately after paragraph (5)—

“(5A) A Member scheduled to ask a Question in the House may, at least two hours before a sitting, nominate another Member to ask the Question in his or her absence by notifying the Speaker in writing.”

Justification: To allow a Member to nominate another to ask a Question on his or her behalf.

STANDING ORDER 42F

THAT, Standing Order 42F be amended in the opening statement by deleting the words “submit a progress” appearing immediately after the word “shall” and substituting therefor the words “by way of a Statement”;

Justification: To require Committees to make statements on Questions and reduce instances of members having to query the Status of their Questions on the floor of the House.

NEW STANDING ORDER 42G

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 42F—

Part to apply to Commissions and Independent Offices.

42G. This Part shall apply to questions directed to constitutional Commissions and Independent Offices with necessary modifications.

Justification: To apply the entire part on Questions to questions directed to constitutional Commissions and Independent Offices with necessary modifications.

STANDING ORDER 44

THAT, Standing Order 44 be amended—

(a) in paragraph (2)—

- (i) in subparagraph (a) by deleting the words “every Thursday” appearing immediately after the words “purpose shall,”;
- (ii) in subparagraph (b) by deleting the words “or Leader of the Minority Party as the case may be” and substituting therefor the words “, the Leader of the Minority Party, the chairperson of a committee”
- (iii) by deleting subparagraph (c) and substituting therefor the following subparagraph—

“(c) a Member may request for a statement from the Committee chairperson relating to matters under the mandate of the Committee which shall be made within twenty-one days of the request or such shorter period as the Speaker may direct.”

- (iv) by inserting the following new subparagraphs immediately after subparagraph (c)—

(d) A chairperson of a committee may, with leave of the Speaker, make a statement relating to the mandate of the committee;

(e) by the indulgence of the House, a Member may explain matters of a personal nature although there is no question before the House, but such matter may not be debated.

(b) by inserting the following new paragraph immediately after paragraph (2)—

(3) A request for a Statement or a response to a Statement under paragraph (2)(c) shall not be permitted unless notification has been approved by the Speaker at least a day before the particular sitting and notified in the Order Paper.

Justification:

1. To allow Chairpersons of Committees to make statements relating to the mandate of their Committees;
2. To reintroduce Standing order 84 on personal statements for logical flow of the Standing Orders; and

3. To provide timeline of twenty-one (21) days or such shorter period as the speaker may direct for statements requested by Members from Committees.

STANDING ORDER 45

THAT, Standing Order 45 be amended—

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

“(2) Despite paragraph (1)—

- (a) appointments under Article 152(2) of the Constitution shall stand committed to the Committee on Appointments; and
- (b) the Speaker may, in exceptional circumstances, direct that a particular appointment be committed to such committee as the Speaker may determine.”
- (b) in paragraph (4) by deleting the word “fourteen” appearing immediately after the words “House within” and substituting therefor the word “twenty-one”.

Justification:

1. To increase the period of approval of public appointments from fourteen to twenty-one days; and
2. To empower the Speaker to commit appointments to other relevant committees of the House in exceptional circumstances.

STANDING ORDER 52

THAT, Standing Order 52 be amended inserting the following new paragraph immediately after paragraph (k)—

- (ka) an exceptional motion for the tributes of the House under Standing Order 259D.

Justification: To include an exceptional Motion for the Tributes of the House as a Motion that may be moved without notice.

STANDING ORDER 62

THAT, Standing Order 62 be amended in paragraph (2) by inserting the words “or such other time as the Speaker may determine” immediately after the word “taken”;

Justification: To allow the Speaker to designate a further date on which a vote may be taken in instances where the Constitution requires a fixed majority of the Members of the House.

STANDING ORDER 83

THAT, Standing Order 83 be amended in paragraph (1) by inserting the words “by rising in his or her place” immediately after the words “Member may”;

Justification: To require a Member to rise in his or her place when raising a Point of Order.

STANDING ORDER 84

THAT, the Standing Order be amended by deleting Standing Order 84.

Justification: To delete and reintroduce the provision in Standing Order 44 that deals with Statements for the logical flow of the Standing Orders.

STANDING ORDER 87

THAT, Standing Order 87 be amended by inserting the following new paragraph immediately after paragraph (5)—

(6) Except as the Speaker may otherwise allow, it shall be out of order for a Member to refer to an extract from print or electronic media as an authority in the Member's speech.

Justification: To preclude a Member from relying on extracts from the media as authorities when addressing the House.

STANDING ORDER 90

THAT, Standing Order 90 be amended by inserting the following new paragraph immediately after paragraph (2)—

(3) The Speaker may allow a Member to speak to a matter under deliberation after considering the nature, extent and effect of the interest declared by the Member.

(4) Any declaration made under this Standing Order shall be entered in the journals of the House.

Justification: To outline the manner of recording declaration of interests by Members and to empower presiding officers to determine the nature, effect and extent of the interests may prejudice the proceedings of the House or Committees.

STANDING ORDER 95

THAT, Standing Order 95 of the Bill be amended by inserting the following new paragraph immediately after paragraph (2)—

“(3) The provisions of this Standing Order shall not apply to a Bill to amend the Constitution.”

Justification: To allow Members desirous of debating a Bill to amend the Constitution adequate opportunity to do so without the threat of a majority of the Members present resolving to close debate at any point they so wish.

STANDING ORDER 96

THAT, Standing Order 96 of the Bill be amended in paragraph (3) by deleting the words “the Speaker may forthwith put the question thereon or” appearing immediately after the word “House”.

Justification: To allow Members desirous of debating a Bill to amend the Constitution adequate opportunity to do so without the threat of a majority of the Members present resolving to adjourn the debate at any point they so wish.

STANDING ORDER 97

THAT, Standing Order 97 of the Bill be amended by inserting the following new paragraph immediately after paragraph (4);

“(5) The provisions of this Standing Order shall not apply to a Bill to amend the Constitution.”

Justification: To allow Members desirous of debating a Bill to amend the Constitution adequate opportunity to do so within any time limitation that the House may agree to impose.

STANDING ORDER 114

THAT, Standing Order 114 be amended—

- (a) by deleting paragraph (1) and substituting therefor the following new paragraphs—
 - (1) One or more Members, or a Committee, may submit to the Speaker a legislative proposal for introduction in the House together with a memorandum setting out the objectives of the proposal and the matters specified in Standing Order 117 (*Memorandum of Objects and Reasons*).
 - (1A) In jointly submitting a proposal under paragraph (1) the Members shall indicate—
 - (a) the name of the main sponsor of the proposal, who shall be the Member in charge of the proposal in the House; and
 - (b) the names of the co-sponsors of the proposal, in alphabetical order; and
- (b) in paragraph (4) by deleting the words “twenty-one (21)” appearing immediately after the words “within” and substituting therefor the words “thirty (30)”;
- (c) in paragraph (7) by deleting the words “twenty-one (21)” appearing immediately after the words “within” and substituting therefor the words “thirty (30)”;
- (d) by inserting the following new paragraphs (immediately after paragraph (7)—
 - “(7A) In respect of a proposal to amend the Constitution—
 - (a) the proposal shall be accompanied by the signatures of at least fifty other Members in support, unless it is sponsored by the Majority Party or the Minority Party;
 - (b) where the Speaker approves the prepublication scrutiny of the proposal, the Speaker shall notify the House of the approval and may—
 - (i) allow the sponsor to make a statement on the objectives of the proposal;
 - (ii) allow comments on the statement made by the Member; and
 - (iii) facilitate collation of the views from the comments of Members at an appropriate forum;
 - (iv) brief the House on the contents of the proposal and other Members to comment on the proposal; and
 - (v) invite Members with similar or related proposals to make submissions before the Committee to which the proposal is referred;
 - (c) the forum or the Committee to which the legislative proposal is referred under subparagraph (b) shall—
 - (i) invite and consider submissions from the Attorney General; the commissions and independent offices established under Chapter fifteen of the Constitution and any constitutional or statutory body with a law reform mandate; and

- (ii) in consultation with the sponsor, attempt to develop and recommend a harmonized version of the proposal arising from the submissions received.

Justification:

1. To allow for co-sponsorship of legislative proposals and Bills;
2. To increase the period of prepublication scrutiny from 21 to 30 days.
3. To actualize Article 256(2) of the Constitution on the introduction of a Bill to amend the Constitution and collection of varied views from other Members and constitutional offices.

STANDING ORDER 114A

THAT, Standing Order 114A be amended—

- (a) by deleting paragraph (1) and substituting therefor the following new paragraph—
 - (1) The Speaker may exempt a legislative proposal from the provisions of Standing Order 114 (*Introduction of Bills*) if the proposal—
 - (a) originates from—
 - (i) the Party forming the National Government; or
 - (ii) a constitutional Commission or Independent Office and relates to the mandate of the Commission or Independent Office;
 - (b) seeks to implement a resolution of the House or a recommendation of the Public Petitions Committee to enact, amend or repeal any legislation; or
 - (c) is identical to a proposal that was passed by the House but lapsed at the expiry of the term of the preceding Parliament; or
 - (d) was introduced by the same Member and read a Second time but lapsed at the expiry of the term of the preceding Parliament.
- (b) by deleting paragraph (2) and substituting therefor the following new paragraph—
 - “(2) An exemption under paragraph (1)(a) may not be granted unless it is accompanied by—
 - (a) a copy of the relevant Cabinet approval, if the legislative proposal originates from the party forming the national government; or
 - (b) the policy underpinning of the legislative proposal and evidence of stakeholder consultations conducted, if the proposal originates from a Commission or Independent Office.”

Justification: To allow the Speaker to exempt the following legislative proposals from pre-publication scrutiny—

- (a) proposals from constitutional Commission or Independent Offices provided that they relate to the mandate of the body and are accompanied by the policy underpinning of the legislative proposal and evidence of stakeholder consultations conducted;
- (b) proposals that seek to implement a resolution of the House or a recommendation for enactment of laws as a response to a petition; proposals identical to those passed by the House but lapsed in the preceding Parliament; and
- (c) proposals of returning Members that were read a Second time but lapsed in the preceding Parliament.

STANDING ORDER 120

THAT, the Standing Orders be amended by deleting Standing Order 120 and substituting therefor the following new Standing Order—

Publication and Introduction of Bills

120. (1) A Bill shall not be introduced in the House unless—

- (a) it is signed by the Member or Committee in charge of it;
- (b) it contains the names of any co-sponsors, if it is jointly sponsored;
- (c) the Bill, together with the memorandum referred to in Standing Order 117 (*Memorandum of Objects and Reasons*), has been published in the *Gazette* (as a Bill to be originated in the Assembly), and unless, in the case of a Division of Revenue Bill, County allocation of Revenue Bill, an Appropriation Bill or a Supplementary Appropriation Bill, a Finance Bill, a County Governments Additional Allocations Bill, an Equalization Fund Appropriation Bill a period of seven days, and in the case of any other Bill a period of fourteen days, beginning in each case from the day of such publication, or such shorter period as the House may resolve with respect to the Bill, has ended.

(2) A Committee Bill may be signed and introduced by the Chairperson of the Committee or a Member of the Committee designated by the Committee for that purpose.

(3) Upon publication of a Bill in the *Gazette*, the Clerk shall obtain sufficient copies of the Bill and avail a copy of the Bill to every Member.

Justification: To combine the current Standing Order 122 and Standing Order 120 for logical flow of the provisions and to require publication of a Bill with the names of co-sponsors in the Assembly, if any.

STANDING ORDER 121

THAT, Standing Order 121 be amended by—

(a) deleting paragraph (2) and substituting therefor the following new paragraph—

(2) Pursuant to Standing Order 110(3) of the Constitution, before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.

(b) deleting paragraph (3).

Justification: To align the provision with Article 110(3) of the Constitution.

STANDING ORDER 122

THAT, the Standing Orders be amended by deleting Standing Order 122.

Justification: To combine the text of the Standing Order with that of Standing Order 120 for logical flow of the Standing Orders.

STANDING ORDER 127

THAT, Standing Order 127 be amended—

- (a) by inserting the following new paragraph immediately after paragraph 1—
 - (1A) Save for a Finance Bill, the Speaker may refer various provisions of a Bill proposing to amend more than one statute in its principal provisions to the relevant Departmental Committees in accordance with their mandates
- (b) in paragraph (4) by deleting the word “twenty-one” appearing immediately after the words “debate within” and substituting therefor the word “thirty”;
- (c) by inserting the following new paragraphs immediately after paragraph (4)—
 - (4A) The Speaker may extend the period for public participation under paragraph (4) where various provisions of a Bill proposing to amend more than one statute in its principal provisions are referred to separate Departmental Committees under paragraph (1A).
 - (4B) Paragraph (4) shall not apply to or in respect of—
 - (a) an Appropriation Bill, a Supplementary Appropriation Bill, a Finance Bill, a Consolidated Fund Bill, a County Allocation of Revenue Bill, a Division of Revenue Bill, an Equalization Fund Bill and a County Governments Additional Allocations Bill; or
 - (b) a Bill to amend the Constitution in respect of its Second and Third Reading.
- (d) In paragraph (6) by deleting the words “a Supplementary Appropriation Bill or a Finance Bill” appearing immediately after the words “Appropriation Bill,” and substituting therefor the words “or a Supplementary Appropriation Bill”.

Justification: To increase the period for the submission of a report on a Bill to the House to sixty days for purposes of enhancing public participation.

NEW STANDING ORDER 130A, 130B, 130C, 130D and 130E

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 130—

Limits on consideration of matters by Committee

130A. A Committee shall not consider any matter other than a matter which has been referred to it or which it is required by these Standing Orders to consider.

Committee of the whole House may not adjourn

130B. A Committee may not adjourn its own sitting or the consideration of any matter to a future sitting, but the Chairperson may by Motion be directed notwithstanding that all matters referred to the Committee have not yet been considered, to report progress to the House and ask leave to sit again.

Report

130C. When all the matters referred to a Committee of the whole House have been considered, the Chairperson shall be directed by Motion to report to the House.

No debate on Motion for Report

130D. (1) When a Motion is made in Committee to report or to report progress and ask leave to sit again, the question shall be put forthwith and decided without amendment or debate and if the question is agreed to the Chairperson shall forthwith leave the chair.

(2) Except as otherwise provided by these Standing Orders, every report under paragraph (1) shall be made without question put, and may, by Motion, be agreed to or negatived by the House or re-committed to the Committee, or postponed for further consideration.

General application of rules in Committee

130E. Except as otherwise provided in these Standing Orders, the same rules of order and of debate for the conduct of business shall be observed in Committee as in the House.

Justification: To reintroduce Standing Orders 166, 167, 168, 169 and 170 in the part dealing with the Committee of the Whole House for logical flow of the Standing Orders.

STANDING ORDER 140

THAT, Standing Order 140 be amended by inserting the following new paragraph immediately after paragraph (2)—

(2A) A Bill under Standing Order 114A(1)(b) may only be withdrawn with the leave of the Speaker.

Justification: The require that a Member seek the leave of the Speaker before withdrawing a Bill introduced to implement a resolution of the House or the recommendation to enact laws in response to a petition.

STANDING ORDER 142

THAT, the Standing Orders be amended by deleting Standing Order 142 and substituting therefor the following new Standing Order—

Concurrence of the other House

142. When a Bill, other than a Bill which in terms of Article 109(3) of the Constitution is considered only in the National Assembly, has been passed—

- (a) the Member in charge of the Bill shall within seven days notify the Speaker, in writing, of the name of any Member or Members of the Senate that the Member has nominated to co-sponsor the Bill in the Senate; and
- (b) the Clerk shall forward a certified copy of the Bill, signed by the Clerk and endorsed by the Speaker, to the Clerk of the Senate together with a message—
 - (i) requesting the concurrence of the Senate; and
 - (ii) notifying the Senate of the name of any Member or Members of the Senate who has been nominated to co-sponsor the Bill.

Justification: To allow co-sponsorship of an Assembly Bill in the Senate.

STANDING ORDER 143

THAT, the Standing Orders be amended by deleting Standing Order 143 and substituting therefor the following new Standing Order—

Consideration of Bills originating in the Senate

143. (1) Whenever the Speaker receives a Bill originating in the Senate, the Speaker shall—

- (a) cause the fact to be known to the House by way of a Message;
- (b) inform the House of the name of any Member or Members who has been nominated by the sponsor of the Bill to co-sponsor the Bill in the House; and
- (c) cause the Bill to be read a First Time.

(2) Following the First Reading, the Bill shall stand committed to the relevant Committee and be proceeded with in the same manner as a Bill originating in the National Assembly.

Justification: To allow co-sponsorship of a Senate Bill in the Assembly.

STANDING ORDER 144

THAT, Standing Order 144 of the Bill be amended in paragraph (c) by inserting the words “and a Schedule of the amendments” immediately after the words “copy of the Bill”.

Justification: To allow the transmission to the Senate of a Schedule containing the specific amendments made by the House to a Senate Bill for ease of tracking and consideration of the amendments.

STANDING ORDER 149

THAT, Standing Order 149 be amended—

- (a) in paragraph (1) by inserting the following new subparagraph immediately after subparagraph (b)—

“(c) agrees with the report of the Committee of the whole House proposing the deletion of all clauses of a Bill originating from the Senate.”

- (b) by deleting paragraph (6) and substituting therefor the following new paragraph—

(6) If the Mediation Committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the Committee is rejected by either House, the Bill is defeated.

- (c) by inserting the following new paragraph immediately after paragraph (6) —

(7) The Clerk shall transmit a Message to the Senate in respect of a decision of the National Assembly under this Standing Order.

Justification: To align the provision on mediation with Article 113 of the Constitution.

PART XXI

THAT, the Standing Orders be amended by deleting the Heading to Part XXI and substituting therefor the following new Heading—

RATIFICATION OF TREATIES

Justification: To insert a new part on the manner of ratification of treaties by the House.

STANDING ORDER 166

THAT, the Standing Orders be amended by deleting Standing Order 166.

Justification: To delete and reintroduce as Standing Order 130A for logical flow of the Standing Orders.

STANDING ORDER 167

THAT, the Standing Orders be amended by deleting Standing Order 167.

Justification: To delete and reintroduce as Standing Order 130B for logical flow of the Standing Orders.

STANDING ORDER 168

THAT, the Standing Orders be amended by deleting Standing Order 168.

Justification: To delete and reintroduce as Standing Order 130C for logical flow of the Standing Orders.

STANDING ORDER 169

THAT, the Standing Orders be amended by deleting Standing Order 169.

Justification: To delete and reintroduce as Standing Order 130D for logical flow of the Standing Orders.

STANDING ORDER 170

THAT, the Standing Orders be amended by deleting Standing Order 170.

Justification: To delete and reintroduce as Standing Order 130E for logical flow of the Standing Orders.

NEW STANDING ORDER 170A

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 170—

Ratification of Treaties

170A. (1) A treaty submitted to the National Assembly for ratification shall be laid on the Table of the House and stand committed to the relevant Committee for consideration.

(2) The Committee shall undertake public participation before submitting its report to the House.

(3) In addition to the information required to be submitted to the National Assembly under written law, the Committee may require the relevant Cabinet Secretary to submit further information, including—

- (a) the social and environmental impact of the treaty in the short-term, medium-term and long-term; and,
- (b) the nature and evidence of any public participation conducted on the treaty.

(4) The report of the Committee to the House shall include—

- (a) information on the views of the people on the ratification of the treaty emanating from public participation conducted by the Committee;
- (b) the findings of the Committee on the treaty and any other information the Committee may deem necessary.
- (c) a recommendation that the House—
 - (i) approves the ratification of the treaty, or
 - (ii) approves the ratification of the treaty with reservations, or
 - (iii) rejects the ratification of the treaty.

(5) In approving ratification of a treaty with reservations, the House shall specify the affected provisions of the treaty and the proposed text of each reservation, which may include prescription of timelines within which an obligation is to be fulfilled before implementation of the Treaty.

(6) Upon decision of the House on a treaty the Clerk shall, within seven days, notify the relevant Cabinet Secretary and enter the information in the register of treaties.

Justification: To provide the procedure for ratification of treaties including making of reservations.

STANDING ORDER 171

THAT, Standing Order 171(1) be amended—

- (a) in paragraph (d) by deleting the words “Majority Party Whip” and substituting therefor the words “Whip of the Majority Party”;
- (b) in paragraph (e) by deleting the words “Minority Party Whip” and substituting therefor the words “Whip of the Minority Party”;
- (c) by deleting subparagraph (f) and substituting therefor the following new subparagraph—

“(f) nine other Members, who shall be nominated by parliamentary parties and approved by the House at the commencement of every Session, reflecting the relative majorities of the seats held by each of the parliamentary parties in the National Assembly and taking into consideration the interests of parties other than parliamentary parties and Independents.”;

Justification: to increase the Membership of the House Business Committee to fourteen Members.

STANDING ORDER 172

THAT, Standing Order 172(1)(c) be amended by inserting the words “parties other than parliamentary parties and” immediately after the words “interests of”;

Justification: To require the Committee on Selection to take into account the interests of parties other than Parliamentary Parties and Independents when constituting committees.

STANDING ORDER 173

THAT, Standing Order 173(1) be amended by inserting the words “parties other than parliamentary parties and Independents,” immediately after the words “parliamentary parties,”;

Justification: To require the Committee on Selection to consult parties other than Parliamentary Parties and Independents when constituting committees.

NEW STANDING ORDER 173A

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 173—

Membership of Committees

173A. (1) Every Member has the right to serve in at least one committee of the House.

(2) A Member may waive the right to serve in a committee of the House by notifying the Speaker in writing.

Justification: To provide for the entitlement of Members to serve in committees unless they waive such right by written notice to the Speaker.

STANDING ORDER 174

THAT, Standing Order 174 be amended—

(a) in paragraph (1) by inserting the following new subparagraph immediately after subparagraph (d)—

“(e) each member is nominated to at least one committee of the House.”

(b) in paragraph (2) by deleting the word “may” appearing immediately after the words “independent Member” and substituting therefor the word “shall”;

(c) by inserting the following new paragraphs immediately after paragraph (2)—

(2A) The Speaker shall, so far as may be practicable, ensure that Members belonging to parties other than parliamentary parties and Independent Members are nominated to serve in Committees.

(2B) The Speaker may decline to approve presentation of a list of committee membership that contravenes this Standing Order to the House Business Committee.

Justification: To require the Committee on Selection and the Speaker to ensure the interests of parties other than Parliamentary Parties and Independents are taken into account in the allocation of Members to the Committees of the House.

STANDING ORDER 176

THAT, Standing Order 176 be amended—

- (a) in paragraph (1) by deleting the word “parliamentary” appearing immediately after the word “A”;
- (b) in paragraph (2) by deleting the word “parliamentary” appearing immediately after the word “The”;
- (c) insert the following new paragraph immediately after paragraph (3)—
“(4) The Speaker shall discharge any Member who contravenes Standing Order 107A (*Gross disorderly conduct*) or breaches of the code of conduct applicable to a Member of Parliament from the Committee of the House responsible for the powers and privileges of the House and the conduct of Members.

Justification:

- 1. To allow parties other than parliamentary parties to discharge their Members from Committees; and
- 2. To empower the Speaker to discharge any Member of the Powers and Privileges Committee who commits gross disorderly conduct.

STANDING ORDER 177

THAT, Standing Order 177 be amended by deleting the word “twenty-three” appearing immediately after the words “not more than” and substituting therefor the word “fifteen”.

Justification: To reduce the higher limit for Membership of committees from twenty-three to fifteen.

NEW STANDING ORDER 177A

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 177—

Selection of committee responsible for privilege and conduct of Members

177A. (1) In selecting members to the Committee of the House responsible for the powers and privileges of the House and the conduct of Members, the Committee on Selection shall consider—

- (a) previous service by a Member to the House as—
 - (i) Speaker;
 - (ii) Leader of the Majority Party;
 - (iii) Leader of the Minority Party; or
 - (iv) Deputy Speaker;
 - (v) a member of the Chairperson’s Panel;
- (b) a Member with the longest cumulative period of service in—
 - (i) the National Assembly;
 - (ii) the National Assembly, the Senate and the East African Legislative Assembly;
 - (iii) the Senate; and
 - (iv) the East African Legislative Assembly;
- (c) educational or professional background in law, senior public administration, mediation, arbitration, or any other deemed appropriate by the Speaker;
- (d) relevant experience in parliamentary practice and procedure; and

- (e) any contravention of Standing Order 107A (*Gross disorderly conduct*) or breach of the code of conduct applicable to a Member of Parliament within the term of Parliament.

Justification: To prescribe criteria for selecting Members to serve in the Powers and Privileges Committee.

STANDING ORDER 178

THAT, Standing Order 178 be amended—

- (a) in paragraph (1) by deleting the word “Vice-Chairperson” appearing immediately after the words “Chairperson and” and substituting therefor the words “two Vice-Chairpersons”;
- (b) in paragraph (2) by inserting the word “one” immediately after the words “Chairperson and”;
- (c) in the opening statement of paragraph (3) by inserting the word “one” immediately after the words “Chairperson and”;
- (d) by inserting the following new paragraph immediately after paragraph (3)—

“(4) A Vice-Chairperson of a Committee shall not be eligible to stand for election as a Chairperson or Vice-Chairperson of another Committee.”

Justification: To introduce the positions of two Vice-Chairpersons and to preclude a Vice-Chairperson from being eligible to stand for election as a Chairperson or Vice-Chairperson of another Committee.

ORDER 179

THAT, Standing Order 179 be amended—

- (a) in paragraph (1) by deleting the words “and Vice-Chairperson” appearing immediately after the word “Chairperson” and substituting therefor the words “, the First Vice-Chairperson and the Second Vice-Chairperson”
- (b) by inserting the following new paragraph immediately after paragraph (1)—
 - (1A) In electing the First and Second Vice-Chairpersons, the Members of a committee shall ensure that—
 - (a) the Vice-Chairpersons are not members of the same parliamentary party;
 - (b) at least one Vice-Chairperson is a member of the Minority Party; and
 - (c) where the chairing of a committee is reserved for the Minority Party or an Independent, at least one Vice-Chairperson is a member of the Majority Party.
- (c) by inserting the following new paragraph immediately after paragraph (13)—
 - (14) The Chairperson of the Liaison Committee shall, by way of a Statement, notify the House of the duly elected Chairperson and Vice-Chairpersons of a Committee when the House next sits after the conduct of an election.”

Justification: To preclude both Vice-Chairpersons of a Committee from belonging to the same party; require at least one Vice-chairperson to be from the Minority Party; and, where a

Committee is reserved for the Minority Part or an Independent, to reserve the position of one Vice-Chairperson to the Majority Party.

STANDING ORDER 181

THAT, Standing Order 181 be amended in paragraph (2) by deleting the words “through the email addresses of a Member” appearing immediately after the word “circulation” and substituting therefor the words “by electronic means to a Member’s official communication address or telephone number”;

Justification: To incorporate text messages and alerts through electronic means as modes of notifying Members of the agenda of a meeting.

STANDING ORDER 183

THAT, the Standing Orders be amended by deleting Standing Order 183 and substituting therefor the following new Standing Order—

Subcommittees

183. (1) A Committee may establish such subcommittees as it may consider necessary for the proper discharge of its functions and prescribe a quorum of not less than three Members.

(2) Unless a quorum is achieved within thirty minutes of the appointed time, the meeting of a subcommittee shall stand adjourned to such further time or days as its chairperson may appoint.

(3) The work of a subcommittee shall be subject to the direction of the Committee and a subcommittee shall regularly report to the committee on any tasks assigned to it.

Justification: To regulate the formation, membership, quorum and responsibilities of subcommittees.

STANDING ORDER 188

THAT, Standing Order 188 be amended by deleting the word “Vice-Chairperson” appearing immediately after the words “Chairperson and” and substituting therefor the words “both Vice-Chairpersons”;

Justification: To align the provision with the introduction of an additional Vice-Chairperson.

STANDING ORDER 193

THAT, Standing Order 193 be amended—

- (a) in paragraph (2) by inserting the words “signed by the members” immediately after the words “written notice”;
- (b) by inserting the following new paragraph immediately after paragraph (2)—
“(2A) Upon receipt of the written notice under paragraph (2) by the Clerk, any signature appended to the notice shall not be withdrawn”.

Justification: To require a Members intending to remove the Chairperson of a Committee to give written notice and to preclude any Members who have signed the notice in support from withdrawing their signatures.

STANDING ORDER 199

THAT, Standing Order 199 be amended—

- (a) in paragraph (5) by deleting the word “report” appearing immediately after the word “dissenting” and substituting therefor the word “opinion”;
- (b) in paragraph (6) by deleting the word “report” appearing immediately after the word “minority” and substituting therefor the word “opinion”;

Justification: To substitute references to a “Minority Report” with “Minority Opinion”.

STANDING ORDER 200

THAT, Standing Order 200 be amended in paragraph (1) by deleting the words “half yearly” appearing immediately after the word “submit” and substituting therefor the word “quarterly”;

Justification: To require Committee to submit quarterly progress reports to the House.

STANDING ORDER 200A

THAT, Standing Order 200A be amended by deleting paragraph (1) and substituting therefor the following new paragraph—

- “(1) The Chairperson of a committee shall table an exit report to the Assembly at the expiry of the term of the committee outlining—
 - (a) the work and any achievements of the committee during the term;
 - (b) any outstanding matter under consideration by the committee together with reasons for its inability to conclude the matter before the expiry of its term”

Justification: To require each committee to table an exit report at the end of its term.

STANDING ORDER 204

THAT, Standing Order 204 be amended—

- (a) in paragraph (1) by deleting the words “twenty two” appearing immediately after the words not more than” and substituting therefor the word “fifteen”;
 - “(1A) the Committee shall elect its Second Vice-Chairperson from among its members.”
- (b) by deleting paragraph (3) and substituting therefor the following new paragraph—
 - “(3) Leader of the Majority Party and the Leader of the Minority Party shall be the First Vice-Chairperson and Second Vice-Chairperson of the committee.
- (c) by inserting the following new paragraph immediately after paragraph (5)—

“(6) Where the Minority Party is the party forming the National Government, the Leader of the Minority Party and the Leader of the Majority Party shall be the First Vice-Chairperson and the Second Vice-Chairperson of the committee.”

Justification: To reduce the membership of the Committee on Appointments from twenty-three to twenty-one Members and to provide for the Leader of the Majority Party and the Leader of the Minority Party as the First Vice-Chairperson and Second Vice-Chairperson of the committee

STANDING ORDER 205

THAT, Standing Order 205 be amended—

(a) in paragraph (3) by inserting the words “elected from among members of the Committee belonging to parties not forming the national government,” immediately after the word “Chairperson”.

(b) by deleting paragraph (5) and substituting therefor the following new paragraph—

“(5) The Public Accounts Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

Justification: To reserve the Chairmanship of the Public Accounts Committee for the Minority Party and to provide for the committee constituted after a general election to serve for three years and the subsequent committee to serve for two years.

STANDING ORDER 205A

THAT, the Standing Orders be amended by deleting Standing Order 205A and substituting therefor the following new Standing Order—

Special Funds Accounts Committee

205A. (1) There shall be a select committee to be designated the Special Funds Accounts Committee.

(2) The Committee shall examine the reports of the Auditor General on—

- (a) Funds established by statute or by subsidiary legislation, except Funds under Standing Order 205B (*Decentralized Funds Accounts Committee*);
- (b) the Equalization Fund;
- (c) the Equalization Fund Advisory Board; and
- (d) the Political Parties Fund.

(3) The Committee shall consist of a Chairperson who shall, so far as is practicable, be an Independent, and not more than fourteen other members.

(4) In the Membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(5) The Special Funds Accounts Committee shall not examine matters of policy or day-to-day administration of the special funds.

(6) The Speaker shall, at the beginning of every term of Parliament or at such other time as may be appropriate, issue a schedule specifying the Funds falling within the mandate of the Committee.

(7) The Special Funds Accounts Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

Justification:

1. To split the mandate of the Committee and limit it to the examination of the audit reports of specific Funds established by statute or subsidiary legislation;
2. To require the Speaker to issue a schedule specifying the Funds falling within the mandate of the Committee for the guidance of the House; and
3. To provide for the committee constituted after a general election to serve for three years and the subsequent committee to serve for two years.

NEW STANDING ORDER 205B

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 205A—

Decentralized Funds Accounts Committee

205B. (1) There shall be a select committee to be designated the Decentralized Funds Accounts Committee.

(2) The Committee shall be responsible for the examination of the reports of the Auditor General on the accounts of—

- a) The National Government Constituencies Development Fund;
- b) The National Government Constituencies Development Fund Board;
- c) The National Government Affirmative Action Fund; and
- d) The National Government Affirmative Action Fund Board;

(3) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging parties not forming the national government, and not more than fourteen other members.

(4) In the Membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(5) The Decentralized Funds Accounts Committee shall not examine matters of policy or day-to-day administration of the special funds.

(6) The Decentralized Funds Accounts Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term..

Justification:

1. To establish a new Committee mandated to examine the audited accounts of NGCDF, NGAAF and their respective Boards;
2. To provide for the committee constituted after a general election to serve for three years and the subsequent committee to serve for two years.

STANDING ORDER 206

THAT, the Standing Orders be amended by deleting Standing Order 206 and substituting therefor the following new Standing Order—

Public Investments Committee on Governance and Education

206. (1) There shall be a select committee to be designated the Public Investments Committee on Governance and Education.

(2) The Committee shall, with regard to the education, defence, governance, justice and law and order sectors,—

- (a) examine the reports and accounts of public investments;
- (b) examine the reports, if any, of the Auditor General on public investments; and
- (c) examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

(3) Despite paragraph (2), the Committee shall not examine any of the following—

- (a) matters of major Government policy as distinct from business or commercial functions of the public investments;
- (b) matters of day-to-day administration; and,
- (c) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.

(4) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging to parties not forming the national government, and not more than fourteen other members.

(5) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(6) The Speaker shall, at the beginning of every term of Parliament or at such other time as may be appropriate, issue a schedule specifying the state corporations falling within the mandate of the Committee.

(7) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

(8) This Standing Order lapses at the end of each term of the Assembly.

(9) The House may by resolution suspend paragraph (8).

Justification:

1. To split the mandate of the Public Investments Committee into three by establishing a specific Committee to examine the audit reports of State Corporations in the education, defence, governance, justice and law and order sectors;
2. To require the Speaker to issue a schedule specifying the State Corporations falling within the mandate of the Committee for the guidance of the House;
3. To reserve the Chairmanship of the Committee to the Minority Party;
4. To provide a sunset provision requiring the House to renew the Committee at the end of every term of Parliament; and

5. To provide for the committee constituted after a general election to serve for three years and the subsequent committee to serve for two years.

NEW STANDING ORDER 206A & 206B

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 206—

Public Investments Committee on Commercial Affairs and Energy

206A. (1) There shall be a select committee to be designated the Public Investments Committee on Commercial Affairs and Energy.

(2) The Committee shall, with regard to the energy, environment, general economic and commercial affairs sectors,—

- (a) examine the reports and accounts of public investments;
- (b) examine the reports, if any, of the Auditor General on public investments; and
- (c) examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

(3) Despite paragraph (2), the Committee shall not examine any of the following—

- (a) matters of major Government policy as distinct from business or commercial functions of the public investments;
- (b) matters of day-to-day administration; and,
- (c) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.

(4) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging to parties not forming the national government, and not more than fourteen other members.

(5) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(6) The Speaker shall, at the beginning of every term of Parliament or at such other time as may be appropriate, issue a schedule specifying the state corporations falling within the mandate of the Committee.

(7) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

(8) This Standing Order lapses at the end of each term of the Assembly.

(9) The House may by resolution suspend paragraph (8).

Public Investments Committee on Social Services, Administration and Agriculture

206B. (1) There shall be a select committee to be designated the Public Investments Committee on Social Services, Administration and Agriculture.

(2) The Committee shall, with regard to the agriculture, public administration, health, and social protection sectors,—

- (a) examine the reports and accounts of public investments;
- (b) examine the reports, if any, of the Auditor General on public investments; and
- (c) examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

(3) Despite paragraph (2), the Committee shall not examine any of the following—

- (a) matters of major Government policy as distinct from business or commercial functions of the public investments;
- (b) matters of day-to-day administration; and,
- (c) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.

(4) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging to parties not forming the national government, and not more than fourteen other members.

(5) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(6) The Speaker shall, at the beginning of every term of Parliament or at such other time as may be appropriate, issue a schedule specifying the state corporations falling within the mandate of the Committee.

(7) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

(8) This Standing Order lapses at the end of each term of the Assembly.

(9) The House may by resolution suspend paragraph (8).

Justification:

1. To establish two new Public Investment Committees to examine the audit reports of State Corporations in the energy, environment, general economic and commercial affairs sectors; and the agriculture, public administration, health, and social protection sectors, respectively;
2. To require the Speaker to issue a schedule specifying the State Corporations falling within the mandate of the two Committees for the guidance of the House;
3. To reserve the Chairmanship of the two Committees to the Minority Party;
4. To provide a sunset provision requiring the House to renew the two Committees at the end of every term of Parliament; and
5. To provide for the two committees constituted after a general election to serve for three years and the subsequent committees to serve for two years.

NEW STANDING ORDER 207A

THAT the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 207—

207A. Public Debt and Privatization Committee

- (1) There shall be a select committee to be designated the Public Debt and Privatization Committee.
- (2) The Committee shall be responsible for —
 - (a) oversight of public debt and guarantees pursuant to Article 214 of the Constitution;
 - (b) examination of matters relating to debt guarantees by the National government;
 - (c) oversight of consolidated fund services excluding audited accounts;
 - (d) examination of reports on the status of the economy in respect of the public debt;
 - (e) oversight of public private partnership programmes by the national government in respect of the public debt; and
 - (f) oversight of the privatization of national assets.
- (3) With respect to the national debt, the Committee shall—
 - (a) consider and examine terms on which the national government may borrow including the debt ceiling;
 - (b) examine the extent of total national indebtedness;
 - (c) examine the use made or to be made of the proceeds of national loans and guarantees by the national government;
 - (d) examine the provisions made for servicing or repayment of national loans and guarantees;
 - (e) examine the annual medium term Debt Management Strategy submitted by the Cabinet Secretary responsible for finance to the National Assembly;
 - (f) examine the progress made in the repayment of national loans and loans guaranteed by the national government;
 - (g) consider and examine proposals by the national government with respect to loans and guarantees to a county government under Article 212(a) of the Constitution;
 - (h) examine annual reports submitted to the National Assembly under Article 213(2) of the Constitution with respect to the guarantees made by national government;
 - (i) examine quarterly reports submitted to Parliament by the Cabinet Secretary on all loans made to the national government, national government entities and county governments, in accordance with Article 211(2) of the Constitution;
 - (j) examine the terms and conditions that the national government guarantees loans;
 - (k) examine the adherence to the principle of inter-generational equity in public borrowing;
 - (l) examine compliance of the national government with the Constitution or statute with respect to public borrowing and guarantees; and
 - (m) examine reports submitted by the Cabinet Secretary on credit guarantees to micro, small and medium enterprises.

(4) The Committee shall make reports and recommendations to the House as often as possible, including recommendation on proposed legislation on matters under its mandate.

(5) The Committee shall consist of a Chairperson, elected from among members of the Committee belonging to parties not forming the national government, and not more than fourteen other members.

(6) In the membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(7) The Public Debt and Privatization Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

Justification:

1. To establish a specific Committee to interrogate matters relating to the national debt and the privatization of national assets;
2. To reserve the Chairmanship of the Committee to the Minority Party;
3. To provide for the committee constituted after a general election to serve for three years and the subsequent committee to serve for two years.

STANDING ORDER 208

THAT, Standing Order 208 be amended—

- (a) in paragraph (2) by deleting the words “seventeen” and substituting therefor the words “thirteen”;
- (b) by inserting the following new paragraph immediately after paragraph (6)—

“(7) The Procedure and House Rules Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

Justification: To reduce the Membership of the Procedure and House Rules Committee to twenty-one Members and to provide for the committee constituted after a general election to serve for three years and the subsequent committee to serve for two years.

NEW STANDING ORDER 208A & 208B

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 208—

Public Petitions Committee

208A. (1) There shall be a select committee to be designated the Public Petitions Committee.

(2) The Committee shall be responsible for—

- (a) considering all public petitions tabled in the House;
- (b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions
- (c) recommending whether the findings arising from consideration of a petition should be debated;

(d) advising the House and reporting on all public petitions committed to it.

(3) The Committee shall consist of a Chairperson and not more than fourteen other members.

(4) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

Diaspora Affairs and Migrant Workers Committee

208A. (1) There shall be a select committee to be designated the Diaspora Affairs and Migrant Workers Committee.

(2) The Committee shall be responsible for—

(a) considering all matters directly relating to policies and programmes for the protection of the rights and welfare of Kenyans in the diaspora, including—

- (i) Kenyan nationals with dual citizenship;
- (ii) Kenyan migrant workers and their families abroad; and
- (iii) Kenyan undertaking studies overseas;

(b) examining policies and programmes of the national government for—

- (i) efficiently harnessing, mobilizing and steering of Kenyan resources in the diaspora for economic, socio-cultural development;
- (ii) engaging and facilitating Kenyans in the diaspora, including persons eligible for dual citizenship; and
- (iii) suffrage of Kenyan nationals in the diaspora.

(3) The Committee shall consist of a Chairperson and not more than fourteen other members.

(4) The Committee constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.

Justification:

1. To establish a committee to consider Petitions to the House and advise on which Petitions should be debated; and
2. To establish a committee to consider matters relating to Kenyan nationals living and working overseas.

STANDING ORDER 209

THAT, Standing Order 209 be amended—

(a) in paragraph (4) by deleting the word “twenty-two” and substituting therefor the word “twenty”;

(b) by inserting the following new paragraph immediately after paragraph (5)—

“(6) The Committee on Implementation constituted immediately following a general election shall serve for a period of three calendar years and the

Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

Justification: To reduce the membership of the Committee on implementation to twenty-one Members.

STANDING ORDER 210

THAT, Standing Order 210 be amended—

- (a) in paragraph (1A) by deleting the words “twenty-two” and substituting therefor the word “twenty”;
- (b) by inserting the following new paragraphs immediately after paragraph (5)—

“(5A) The Committee shall, on a quarterly basis, report to the House on the list of statutory instruments approved under paragraph (4)(a).

(5B) Where the House annuls part or an entire statutory instrument, the regulation making authority shall notify the Clerk and submit evidence of the publication of the annulment within twenty-one days.

(5C) The Clerk shall record information received under paragraph (5B) in the register of Statutory Instruments and refer it to the Committee.

(5D) The Committee on Delegated Legislation constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

Justification: To streamline the processing of Statutory Instruments by the House

STANDING ORDER 212

THAT, Standing Order 212 be amended—

- (a) in paragraph (3) by deleting the word “twenty-two” and substituting therefor the word “twenty”;
- (b) by inserting the following new paragraph immediately after paragraph (3)—

“(4) The Committee on Regional Integration constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

Justification: To reduce the membership of the Committee on Regional Integration to twenty-one Members.

STANDING ORDER 212C

THAT, Standing Order 212C be amended—

- (a) in paragraph (2) by deleting the word “twenty-two” and substituting therefor the word “twenty”;
- (b) by inserting the following new paragraph immediately after paragraph (3)—

“(4) The Committee on National Cohesion and Equal Opportunity constituted immediately following a general election shall serve for a period of three calendar years and the Committee constituted thereafter shall serve for the remainder of the parliamentary term.”

Justification: To reduce the membership of the Committee on National Cohesion and Equal Opportunity to twenty-one Members.

STANDING ORDER 212D

THAT, Standing Order 212D be amended in paragraph (2) by deleting the word “twenty-two” and substituting therefor the word “twenty”;

Justification: To reduce the membership of the Committee on Parliamentary Broadcasting and Library to twenty-one Members.

STANDING ORDER 213

THAT, Standing Order 213(3) be amended by inserting the words “, parties other than parliamentary parties and Independents,” immediately after the words “parliamentary parties,”;

Justification: To require the Committee on Selection to take into account the interests of parties other than parliamentary parties and Independents when constituting joint Committees of Parliament.

STANDING ORDER 216

THAT, Standing Order 216 be amended—

- (a) in paragraph (1)(a) by inserting the words “, parties other than parliamentary parties and Independents,” immediately after the words “parliamentary parties,”;
- (b) in paragraph (1)(b) by deleting the word “nineteen” appearing immediately after the word “exceed” and substituting therefor the word “fifteen”;
- (c) in paragraph (5) by—
 - (i) inserting the following new sub-paragraph immediately after sub-paragraph (b) —
(ba) on quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
 - (ii) deleting subparagraph (h).

Justification:

1. To cap the membership of Departmental Committees to fifteen Members;
2. To require Departmental Committees to monitor the implementation of the budget on a quarterly basis.

STANDING ORDER 223

THAT, Standing Order 223 be amended—

- (a) in paragraph (i) by deleting the word “addresses” appearing immediately after the word “names” and substituting therefor the words “contact information”;
- (b) by renumbering the existing provision as paragraph (1);
- (c) by inserting the following new paragraph immediately after paragraph (1)—

“(2) Despite paragraph (1)(k), a Petitioner shall—

- (a) attach evidence of the efforts made to have the matters raised in the petition addressed by a relevant body for purposes of paragraph (1)(f); and
- (b) where the matters are pending before court, attach evidence of the court proceedings or judgment for purposes of paragraph (1)(g).”

Justification: To require petitioners to attach evidence of their efforts to have matters addressed by other relevant bodies and any court pleadings if the matters are pending in court.

STANDING ORDER 224

THAT, the Standing Orders be amended by deleting Standing Order 224.

Justification: To allow the House to debate petitions.

STANDING ORDER 227

THAT, Standing Order 227 be amended—

- (a) in paragraph (1) by deleting the words “relevant Departmental” appearing immediately after the words “to the” and substituting therefor the words “Public Petitions”;
- (b) by deleting paragraph (2) and substituting therefor the following new paragraph—

(2) Whenever a Petition is committed to the Public Petitions Committee, the Committee shall, within ninety calendar days of committal, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House.

- (c) inserting the following new paragraph immediately after paragraph (2)—

(2A) The Public Petitions Committee may recommend that a report on a petition be considered for debate in the House.

Justification: To require all petitions to be referred to the Public Petitions Committee and to increase the period for consideration of petitions from sixty to ninety days.

STANDING ORDER 232

THAT, Standing Order 232 be amended—

- (a) in paragraph (1) by deleting the words “and a Debt Management Strategy” appearing immediately after the word “Statement”;
- (b) by deleting paragraph (4);
- (c) by deleting paragraph (6);

- (d) by deleting paragraph (8)(c);
- (e) in paragraph (9) by—
 - (i) deleting the word “among” appearing immediately after the words “vertical allocation of resources” and substituting therefor the word “between”;
 - (ii) deleting the words “and where necessary” appearing immediately after the words “the National Government, the Judiciary and Parliament”.

Justification: To remove references to the Debt Management Strategy which is proposed to be examined by the Committee on Public Debt and Privatization.

NEW STANDING ORDER 232A

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 232—

Presentation of Debt Management Strategy

232A. (1) Every year not later than 15th February the Cabinet Secretary responsible for Finance shall submit to the House a Debt Management Strategy.

(2) The Debt Management Strategy shall include—

- (a) the total stock of debt as at the date of the statement;
- (b) the sources of loans made to the national government and the nature of guarantees given by the national government;
- (c) the principal risks associated with those loans and guarantees;
- (d) the assumptions underlying the debt management strategy; and
- (e) an analysis of the sustainability of the amount of debt, both actual and potential.

(3) Upon being laid before the House, the Debt Management Strategy shall be committed to the Public Debt and Privatization Committee.

(4) Within ten (10) days following the tabling of the Debt Management Strategy, the Public Debt and Privatization Committee shall table a report in the House for consideration.

(5) The report of the Public Debt and Privatization Committee under paragraph (4) shall include –

- (a) a schedule showing the stock of domestic and foreign public debt including guarantees, as at the date of the statement;
- (b) an evaluation of the principal risks associated with the existing loans and guarantees;
- (c) an evaluation of the sustainability of the amount of debt, both actual and potential;
- (d) a recommendation on the overall debt strategy for the next financial year and the medium term; and
- (e) a recommendation on the appropriate limit on proposed domestic and foreign borrowing for the next financial year and the following two financial years.

(6) The House shall consider the report of the Public Debt and Privatization Committee on the Debt Management Strategy before considering the report of the Budget and Appropriations Committee on the Budget Policy Statement.

(7) The resolution of the House on the report of the Public Debt and Privatization Committee on the Debt Management Strategy shall constitute the House Resolution on the appropriate limit on proposed domestic and foreign borrowing for the next financial year.

(8) The resolution of the House on the Debt Management Strategy shall-

- (a) be the appropriate limit on proposed domestic and foreign borrowing for the next financial year;
- (b) form a basis for the approval of the Report of the Budget and Appropriations Committee on the Budget Policy Statement.

Justification: To provide for the consideration of the Debt Management Strategy by the Committee on Public Debt and Privatization.

STANDING ORDER 235

THAT, Standing Order 235 be amended by inserting the following new paragraph immediately after paragraph (5) —

(6) Where the Committee recommends any changes, variations or re-allocations in the Estimates, the Budget and Appropriations Committee shall include in its recommendations under paragraph (5) an itemized schedule outlining the proposed changes, variations or re-allocations specific to each Vote, Sub-Vote, Program, Project, Output or Target.

Justification: To ensure sufficient information is provided to the House during the consideration of the estimates in the Committee of Supply. This will aid Members of to make informed decisions during the consideration of every Vote and program in the Committee of Supply.

STANDING ORDER 240B

THAT, Standing Order 240B be amended by inserting the following new paragraphs immediately after paragraph (4)—

(5) Upon passage of the Appropriations Bill, the Clerk shall, as soon as practicable, certify in writing any changes made to a Vote or a programme and indicate any reallocations, increases, or decreases made by the National Assembly to a Vote, Sub-Vote, Programme, project, Output or Target to facilitate the Cabinet Secretary responsible for finance to republish the final approved Estimates.

(6) Following the enactment of the Appropriations Act, the Budget and Appropriations Committee shall ensure that any reallocations, increases, or decreases made by the National Assembly to the Estimates with respect to any Vote, Sub-Vote, Programme, project, Output or Target are incorporated in the republished final approved budget books.

Justification: To improve transparency in budgeting and entrench the exercise of the power to review the estimate. The amendment seeks to reflect the changes made by the House during the approval of the Appropriations Bill by capturing the said changes in a detailed way at the level of Vote, program, project, output and target. Apart from being a record of the decisions

of the House, this information will be communicated to the National Treasury promptly to ensure the changes intended by the House are reflected in the actual implementation of the budget by the Executive.

STANDING ORDER 243

THAT, Standing Order 243 be amended —

(a) in paragraph (2) by inserting the following new sub paragraphs immediately after subparagraph (b)—

- (c) justifications and necessary financial documents as evidence for the money spent;
- (d) separate schedules for expenditure made under Article 223 of the Constitution and any ordinary re-allocations made to any vote;
- (e) a schedule indicating the money spent and the purpose for which it was spent under each Vote, Programme and Project; and
- (f) the date when the first withdrawal of the said money was made.

(b) by inserting the following new paragraphs immediately after paragraph (3) —

(3A) The report of the Budget and Appropriations Committee to the House on Supplementary Estimates shall—

- (a) include an examination of the compliance of the proposed Supplementary Estimates with—
 - (i) the conditions set out in Article 223 of the Constitution and any other law; and
 - (ii) the principles and values of public finance under Article 201 of the Constitution;
- (b) only contain provisions for money already withdrawn and spent by the National Government in accordance with Article 223 of the Constitution; and
- (c) contain separate schedules for expenditure made under Article 223 of the Constitution and any ordinary re-allocations made to any vote and a schedule of any financial and policy resolutions.

(3B) Paragraph (3A) shall apply to a Departmental Committee examining the Supplementary Estimates and making recommendations to the Budget and Appropriations Committee under Standing Order 243(3).

(3C) The Clerk shall maintain a specific register for noting any requests for approvals made by the Cabinet Secretary responsible for finance pursuant to Article 223 of the Constitution and facilitate the timely tabling of all such requests.

Justification: To prescribe the procedure applicable to seeking approval from Parliament with regard to money already withdrawn and spent by the National Government pursuant to Article 223 of the Constitution.

STANDING ORDER 245

THAT, Standing Order 245 be amended in paragraph (4) by deleting the words “ninety days after passing the Appropriation Bill,” and substituting therefor the words “30th June each year,”.

Justification: to align the wording of the Standing Order with the provisions of the Public Finance Management Act on the date by which the Finance Bill should be passed.

NEW STANDING ORDER 245A

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 245—

Budget Implementation Monitoring

245A (1) The Budget and Appropriations Committee shall, in examining the implementation of the National Budget —

- (a) review quarterly reports submitted by the Cabinet Secretary responsible for finance pursuant to the Public Finance Management Act;
 - (b) review reports submitted by the Controller of Budget relating to implementation of Budget with respect to Parliament and the Office of the Auditor General;
 - (c) examine and report on the expenditures and non-financial performance of the Budget of Parliament and the Office of the Auditor General;
 - (d) examine conformity of the implementation process with the principles and values of public finance as set out in Article 201 of the Constitution; and
 - (e) confirm whether any new resources arising from tax revenue and grants raised by the National Government within the year are spent to reduce the fiscal deficit.
- (2) Each Departmental Committee shall, pursuant to Standing Order 216(5) (ba)—
- (a) review the quarterly reports submitted by the Cabinet Secretary responsible for finance pursuant to the Public Finance Management Act, 2012;
 - (b) review reports submitted by the Controller of Budget on matters relating to implementation of the Budget by the national government;
 - (c) examine and report on the expenditures and non-financial performance of the Budget of the national government; and
 - (d) examine the conformity of the implementation process with the principles and values of public finance as set out in Article 201 of the Constitution.

Justification: To provide for Budget implementation monitoring by the Budget and Appropriations Committee and all Departmental Committees.

STANDING ORDER 248

THAT, Standing Order 248 be amended by inserting the following new paragraph immediately after paragraph (1)—

- (1A) There shall be published within seventy-two hours, a verbatim report of all proceedings of a Committee of the House where evidence is given, unless the Speaker is satisfied that this is rendered impossible by some emergency.

Justification: To require the preparation of *Hansard* reports of the proceedings of Committees in which evidence is given.

STANDING ORDER 249

THAT, Standing Order 249 be amended by inserting the words “and its committees” immediately after the words “proceedings of the House”.

Justification: To provide for the exclusion of secret matters from the proceedings of committees.

STANDING ORDER 250

THAT, Standing Order 250 be amended—

- (a) in paragraph (1) by inserting the words “and its committees” immediately after the words “the House”;
- (b) in paragraph (2) by inserting the words “and its committees” immediately after the words “the House”.

Justification: To provide for the broadcast of the proceedings of committees.

STANDING ORDER 252

THAT, Standing Order 252 be amended by inserting the following new paragraphs immediately after paragraph (2)—

(2A) A person required to appear before a Committee of the House may request for the exclusion of the public at his or her appearance by notifying the Committee in writing at least twenty-four hours before their appearance.

(2B) The Committee shall consider a request under paragraph (2A) as against the requirements under Article 118 of the Constitution on facilitating public access to Parliament and public interest and notify the House each time it approves such request and provide reasons for the approval.

Justification: To provide the applicable procedure where a witness requests for in-camera proceedings.

NEW STANDING ORDERS 259B, 259C, 259D, 259E, 259F & 259G

THAT, the Standing Orders be amended by inserting the following new Standing Orders immediately after Standing Order 259A—

Caucus of Independent Members

259B. (1) The Speaker may, upon the written request of at least ten Independent Members, recognize a caucus of Independent Members for purposes of facilitating Independent Members to discharge their role in National Assembly.

(2) A request to the Speaker under this Standing Order shall contain the names and signatures of the proposed Members of the caucus.

(3) For the purpose of this Standing Order, the Speaker shall only recognize one caucus.

Ad hoc Committees

259C. (1) A Member may, subject to the approval of the House Business Committee, move a motion proposing the establishment of an *ad hoc* Committee on a specific and exceptional subject not under active consideration by a Committee of the House.

(2) A motion under this Standing Order shall—

- (a) indicate the proposed name of the Committee;
- (b) outline the proposed mandate of the Committee and the exceptional nature of the subject to be considered; and
- (c) indicate the proposed membership and leadership of the Committee;

(3) The mover of a motion under this Standing Order shall ensure that—

- (a) the proposed membership of the Committee reflects the relative majorities of the seats held by each of the parliamentary parties in the National Assembly and takes into account the interests of parties other than parliamentary parties and Independents; and
- (b) not more than two-thirds of the proposed membership of the Committee are of the same gender.

(4) Unless the House otherwise resolves, an *ad hoc* committee shall consider and report on the subject matter of its mandate within ninety days.

Tributes of the House

259D. (1) The Speaker shall report to the assembled House the demise of a person whom the Speaker considers necessary for the House to note and tributes of the House may be made by way of an exceptional motion

(2) A Member may, with leave of the Speaker,

- (a) report the demise of a former Member; or
- (b) notify the House of an exceptional national, regional or international achievement by a Kenyan;

(3) The Speaker may allow Members to make brief comments following a report made or notification given under this Standing Order.

(4) The Clerk shall convey a certified copy of the relevant *Hansard* to the family of a person to whom the House gives tribute.

Nomination or appointment to a public office by the House

259E. Where written law or subsidiary legislation requires the National Assembly to nominate a person for appointment or to appoint a person to a public office the Speaker may, in the absence of prescribed criteria, issue guidelines on the manner of nominating the person or making the appointment.

Members' Biodata and Roll

259F. (1) At the commencement of every Parliament or following a by-election, a Member shall submit to the Clerk biodata in the form prescribed in the Tenth Schedule for purposes of facilitating the Member in the affairs of the National Assembly and for public information.

(2) A Member may at any time during the term of a Parliament update the information submitted under paragraph (1).

(3) The Clerk shall keep custody of Members' biodata and regularly update the data whenever a Member submits information and may publish the information on the Parliamentary website.

(4) A Member shall be responsible for the accuracy of the information provided under this Standing Order.

(5) At least one month before the end of a term of Parliament, the Clerk shall publish in the *Gazette*, a Roll of Members who served in that Parliament in alphabetical order.

Designation of Ranking Members

259G. (1) The Speaker may, from time to time, recognize and designate a Member of the House as a Ranking Member.

(2) In designating a Ranking Member, the Speaker shall—

(a) have regard to—

(i) the Members' previous service to the House as Speaker, Deputy Speaker, the Leader of the Majority Party, or the Leader of the Minority Party; and

(ii) the Members' cumulative period of service to the House.

(b) notify the Member and the House of any privileges accompanying such recognition.

Justification: To insert specific provisions in the Standing Orders to provide for—

(a) the recognition of a Caucus of Independent Members

(b) Rules regarding the formation of *Ad hoc* Committees the procedure of giving Tributes of the House;

(c) the issuance of guidelines by the Speaker where the House is required to either nominate or appoint a person to a public office;

(d) Members to submit their Biodata to the Clerk and to require the Clerk to publish a Roll of Members who served in Parliament at the end of each term; and

(e) the manner of designating Ranking Members and the privileges attached to such designation.

SECOND SCHEDULE

THAT, the Standing Orders be amended by deleting the Second Schedule and substituting therefor the following new Schedule—

SECOND SCHEDULE

[Standing Order 216]

Committee title	Subject matter
Administration & Internal Affairs	Home affairs, internal security – including police services and coast guard services, public administration, immigration and citizenship.
Agriculture & Livestock	Agriculture, livestock, food production and marketing.
Communication, Information & Innovation	Communication, information, media and broadcasting (except for broadcast of parliamentary proceedings), information technology, communication technology, including development and advancement of technology, data protection and privacy, cyberspace and cyber-security, artificial intelligence, block-chain technology, and other emerging technologies.
Defence, Intelligence & Foreign Relations	Defence, intelligence, foreign relations, diplomatic and consular services, international boundaries including territorial waters, international relations, and veteran affairs.
Education	Education, training, curriculum development, and research.
Energy	Fossil fuels exploration, development, production, maintenance and distribution, nuclear energy, clean energy and regulation of energy.
Environment, Forestry & Mining	Climate change, environment management and conservation, forestry, mining and natural resources, pollution, waste management.
Finance & National Planning	Public finance, public audit policies, monetary policies, financial institutions (excluding those in securities exchange), economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
Health	Health, medical care and health insurance including universal health coverage.

Housing, Urban Planning & Public Works	Housing, public works, urban planning, metropolitan affairs, housing development and built environment.
Justice and Legal Affairs	Judiciary, tribunals, access to justice, public prosecutions, ethics, integrity & anti-corruption, correctional services, community service orders and witness protection, Constitutional affairs, sovereign immunity, elections including referenda, human rights, political parties, the State Law Office, including, insolvency, law reform, public trusteeship, marriages and legal education.
Labour	Labour including migrant labour, human capital and remuneration, trade union relations and public service.
Lands	Matters related to lands and settlement including, land policy, land transactions, survey & mapping, land adjudication, settlement, land registration, land valuation, administration of community and public land and land information & management system
Regional Development	Regional development, including regional development authorities; refugee affairs; devolution; inclusive growth; arid and semi-arid areas; disaster risk management; drought, famine and disaster response; and post-disaster recovery and rehabilitation.
Social Protection	Social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
Sports & Culture	Sports, culture, language, creative economy including promotion of music, arts, film promotion and development, national heritage and betting & lotteries.
Tourism & Wildlife	Tourism & tourism promotion and management, tourism research and wildlife management.
Trade, Industry and Cooperatives	Trade, including securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion & development including micro, small & medium enterprises (MSMEs), and small and medium enterprises (SMEs), intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.
Transport & Infrastructure	Transport, including non-motorized transport, construction and maintenance of roads, rails, air and marine transport, seaports and national integrated infrastructure policies and programmes and transport safety.

Water, Fisheries & Irrigation	Use and regulation of water resources, irrigation, fisheries development including promotion of aquaculture, fish farming, marine fisheries and blue economy.
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Justification: To increase Departmental Committees from fifteen to twenty and to rationalize their respective mandates.

NEW NINTH AND TENTH SCHEDULES

THAT, the Standing Orders be amended by inserting the following new Schedules immediately after the Eighth Schedule—

NINTH SCHEDULE

Form of Nomination Paper (Standing Order 5(3A))

NOMINATION PAPER FOR ELECTION TO THE OFFICE OF SPEAKER OF THE NATIONAL ASSEMBLY

1. **CANDIDATE:**(a) Surname
- (b) Given Name(s)
- (b) National Identity Card or Passport Number
- (c) Gender
- (d) Date of Birth
- (e) Postal Address
- (f) Physical Address
- (g) E-mail Address
- (h) Mobile Phone Number
- (i) Other Telephone Number(s)
- (j) Occupation

2. CANDIDATE'S CONSENT TO NOMINATION

I, do hereby consent to my nomination as a candidate for election as Speaker of the National Assembly and attach hereto—

- (a) a letter from the Independent Boundaries and Electoral Commission evidencing the fact that I am qualified to be elected as a Member of Parliament under Article 99 of the Constitution and I am not such member;
- (b) my curriculum vitae; and
- (c) copies of my certificates and other relevant documents.

Signature of Candidate..... Date.....

3. **PROPOSERS:**

We the undersigned, having been duly elected to the National Assembly do hereby declare that in our personal knowledge, the candidate named above is not a Member of Parliament, is qualified to be elected as a Member of Parliament pursuant to Article 99 of the Constitution and is willing to serve as Speaker of the National Assembly and therefore propose the above-mentioned person for election as Speaker of the National Assembly—

NO	MEMBER'S NAME: <i>(Indicate the Surname and other given names)</i>	CONSTITUENCY	I.D CARD NO. /PASSPORT NO.	SIGNATURE
1				
2				
3				
4				
5				
6				
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8				
9				
10				
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13				
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15				

16				
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19				
20				

4. CERTIFICATE OF THE CLERK OF THE NATIONAL ASSEMBLY

I certify that this nomination paper was delivered to me at my office by.....
 of I. D. Number/Passport No.
 at..... a.m./p.m.* on the day of
 Year.....

Signature of the Clerk

(Official Stamp)

Clerk of the National Assembly.

Notes:

**A nomination paper must be delivered duly completed by the candidate to the Clerk of the National Assembly at the Clerk's Office at least forty-eight (48) hours before the time appointed for the House to meet to elect a Speaker.*

TENTH SCHEDULE

Biodata Form

[Standing Order 259E]

BIO DATA FORM FOR MEMBERS

Kindly take time to fill this form. The data gathered shall be used in the parliamentary website and for other official purposes.

1. Title: Mr./Mrs./Ms./Prof./Dr./Other _____ (Tick one
or specify)

2. Surname _____ Other Names _____

3. Constituency/County of Representation _____

☐

4. Political Party _____ Independent

5. Date of Birth: Day _____ Month _____ Year _____ -

6. Gender: _____

7. Postal Address _____

8. Office Telephone _____ Extension _____

9. Email Address(es):

i. _____

ii

10. Cell Phone:

- i. _____

- ii _____

11. Religion

12. Education Background (From *Highest Level Attained*):

From	To	Institution	Qualification

13. Previous Employment/Service History:

From	To	Employer	Position Held

14. Membership to Committees from Previous Parliaments; i.e. 12th, 11th, 10th, 9th etc:

From	To	Committee	Position Held

15. Professional Affiliations:

16. Honours/Awards:

17. Special Skills:

18. Areas of Interest:

19. Are you a person with disability:

Yes

☐

No

☐

If 'Yes' please give details of the nature and any special requirements:

NB: *A Member shall be responsible for the accuracy of the information provided on this form.*

Signature_____ **Date**_____

ANNEXURE 2


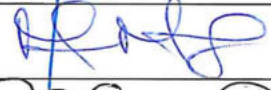
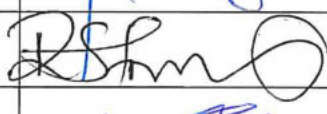

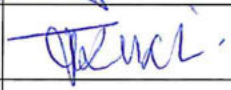
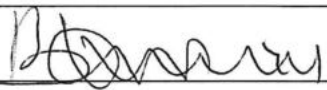
Report Adoption List



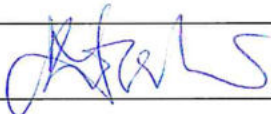
THE PROCEDURE & HOUSE RULES COMMITTEE

ADOPTION SCHEDULE

THE FIFTH REPORT OF THE PROCEDURE & HOUSE RULES COMMITTEE ON AMENDMENT TO THE STANDING ORDERS

We, the undersigned Members of the Procedure and House Rules Committee, today, Thursday, 26th May 2022, pursuant to the provisions of Standing Order 199, do hereby affix our signatures to the **FIFTH REPORT OF THE PROCEDURE & HOUSE RULES COMMITTEE ON AMENDMENT TO THE STANDING ORDERS** to affirm our approval and confirm its accuracy, validity and authenticity –

S/NO	NAME	SIGNATURE
1.	The Hon. Justin B.N. Muturi, EGH, MP (Chairperson)	
2.	The Hon. Moses Cheboi, CBS, MP	
3.	The Hon. Rosalinda Soipan, MP	
4.	The Hon. Patrick Mariru, MP	
5.	The Hon. Jessica Mbalu, MP	
6.	The Hon. Christopher Omulele, MP	
7.	The Hon. John Olago Aluoch, CBS, MP	
8.	The Hon. Richard Maore Maoka, CBS, MP	
9.	The Hon. David Njuguna Kiaraho, MP	
10.	The Hon. Tom Joseph Kajwang', MP	
11.	The Hon. Benson Orori Momanyi, MP	
12.	The Hon. Abdul Rahim Dawood, MP	
13.	The Hon. Zuleikha Hassan, MP	

14.	The Hon. Janet Jepkemboi Sitienei, MP	
15.	The Hon. Gathoni Wamuchomba, HSC, MP	
16.	The Hon. Beatrice Adagala, MP	
17.	The Hon. (Dr.) Pamela Odhiambo, MP	
18.	The Hon. (Dr.) Robert Pukose, MP	
19.	The Hon. Alexander Kimutai Kosgey, MP	
20.	The Hon. Gladys Boss Shollei, CBS, MP	
21.	The Hon. Safia Sheikh Adan, MP	

ANNEXURE 3

Minutes of the proceedings of the Committee

**MINUTES OF THE NINTH MEETING OF THE PROCEDURE & HOUSE
RULES COMMITTEE HELD ON FRIDAY, 13TH MAY, 2022 AT THE TRIBE
HOTEL AT 10.00AM**

PRESENT

1. The Hon. Moses Cheboi, CBS, MP - Deputy Speaker (**Chairing**)
2. The Hon. Olago Aluoch, CBS, MP
3. The Hon. Tom Joseph Kajwang', MP
4. The Hon. Benson Orori Momanyi, CBS, MP
5. The Hon. (Dr.) Robert Pukose, MP
6. The Hon. (Dr.) Pamela Ochieng' Awuor, MP
7. The Hon. Gathoni Wamuchomba, MP

ABSENT WITH APOLOGIES

1. **The Hon. Justin B. N. Muturi, EGH, MP -Speaker of the National
Assembly/Chairperson**
2. The Hon. Rosalinda Soipan, CBS, MP- 1st Chairperson of Committees
3. The Hon. Patrick Mariru, MP - 2nd Chairperson of Committees
4. The Hon. Jessica Mbalu, MP - 3rd Chairperson of Committees
5. The Hon. Christopher Omulele, MP. - 4th Chairperson of Committees
6. The Hon. Richard Maore Maoka, CBS, MP
7. The Hon. David Kiaraho, MP
8. The Hon. Janet Jepkemboi Sitienei, MP
9. The Hon. Alexander Kimutai Kosgey, MP
10. The Hon. Beatrice Adagala, MP
11. The Hon. Gladys Boss Shollei, CBS, MP
12. The Hon. Safia Sheikh Adan, MP
13. The Hon. Abdul Rahim Dawood, MP
14. The Hon. Zuleikha Hassan, MP

IN ATTENDANCE

1. Mr. Samuel Njoroge - Director, Legislative & Procedural Services
2. Mr. Peter Chemweno - Director, Departmental Committees
3. Ms. Lucy Wanjohi - Principal Clerk Assistant/PHRC
4. Mr. Noah Too - Principal Clerk Assistant II
5. Mr. Joash Kosiba - Principal Fiscal Analyst

- | | | |
|-----------------------|---|-----------------------------|
| 6. Mr. Mainah Wanjiku | – | Senior Clerk Assistant/PHRC |
| 7. Mr. Ronald Walala | – | Legal Counsel I/PHRC |
| 8. Dr. Donald Manyala | – | Research Officer II |
| 9. Ms. Getrude Chebet | – | Second Clerk Assistant/PHRC |

MIN./PHRC/01/2022

PRELIMINARIES

The Deputy Speaker (Hon. Moses Cheboi, CBS) called the meeting to order at 10.00 am and welcomed the Members present. Thereafter prayers were said by the Hon. (Dr.) Robert Pukose, MP.

MIN./PHRC/02/2022

ADOPTION

The Agenda for the meeting was adopted as –

1. Prayers
2. Preliminaries
3. **Consideration of the proposed amendments to the Standing Orders**
4. Any Other Business
5. Date of the next meeting

MIN./PHRC/03/2022

**CONSIDERATION OF THE PROPOSED
AMENDMENTS TO THE STANDING ORDERS**

The Deputy Speaker invited Mr. Samuel Njoroge, *the Team Leader of the Taskforce on the Review of Rules of Procedure of the National Assembly*, to take the Committee through the schedule of proposed amendments to Standing Orders.

The Committee was briefly taken through the history of Standing Orders as indicated in the Report. The Committee was also apprised of following highlights of the proposed amendments to the current Standing Orders –

- 1) The increase of the Chairperson's Panel from four (4) to six (6);
- 2) Increase of the period for Committees to report of Bills from the current twenty-one days to thirty days;
- 3) The provision of two (2) Vice-Chairpersons for every Committee;
- 4) The splitting of the Public Investment Committee to create two (2) additional Committees with a sunset provision;

- 5) The creation of additional Departmental Committees to increase specialization and efficiency; and
- 6) The creation of a Committee to examine matters relating to public debt and privatization.

The Committee made the following observations from the presentation –

1. Regarding proposals from the Constitutional Implementation Oversight Committee, the Committee proposed that another Member may take up a bill that had lapsed in the previous Parliament upon republication in a new House.
2. Regarding the Proposal by the Member for Garissa, the Hon. Aden Duale, EGH, MP on facilitation of Members, the Committee proposed that Independent Members also be accorded the same facilitation.
3. On the ranking of Members during swearing in, the Committee noted that there was need to define who a ranking Member is under Standing Order 2.
4. On the proposal to exempt Bills sponsored by constitutional commissions from pre-publication scrutiny, the Committee noted that such Bills should be restricted to the mandate of the Commission.
5. In selecting members to committees, the Committee proposed that Ranking Members be included in the composition of the Committee of Privileges.
6. Further, the Committee proposed that a Member selected to the Committee of Privileges shall be discharged if they contravene Standing Order 107A or breach the code of conduct as outlined in the Parliamentary Powers and Privileges Act, 2017.
7. The committee also recommended that the mandate of the Committee on Administration and Internal Affairs be split to create a new Committee on Regional Development to ease the heavy mandate of the Committee on Administration and Internal Affairs.
8. On the proposal to split the Justice and Legal Affairs Committee, the Committee recommended that it remains as is since it is not over-burdened as currently constituted.
9. Regarding the formation of Ad-hoc Committees, the Committee recommended that there was need to make it clear that such a committee may only be formed under exceptional circumstances and shall only

consider matters that are not under active consideration by a Committee of the House.

MIN./PHRC/04/2022

WAY FORWARD

It was agreed that the revised Report would be considered by the Committee on 20th May 2022 and Tabled on 24th May 2022.

MIN./PHRC/05/2022

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the Deputy Speaker adjourned the meeting at twenty minutes past two o'clock. The next meeting shall be by notice.

Sign: 

(Chairperson)

Date: 

MINUTES OF THE TENTH MEETING OF THE PROCEDURE & HOUSE RULES COMMITTEE HELD ON TUESDAY, 24TH MAY, 2022 IN COMMITTEE ROOM 7 AT 10.30AM

PRESENT

1. The Hon. Justin B. N. Muturi, EGH, MP - Speaker of the National Assembly/Chairperson
2. The Hon. Moses Cheboi, CBS, MP - Deputy Speaker (**Chairing**)
3. The Hon. Rosalinda Soipan, CBS, MP - 1st Chairperson of Committees
4. The Hon. Christopher Omulele, MP - 4th Chairperson of Committees
5. The Hon. Dr. Robert Pukose, MP
6. The Hon. Gathoni Wamuchomba, MP
7. The Hon. Abdul Rahim Dawood, MP
8. The Hon. Zuleikha Hassan, MP

ABSENT WITH APOLOGIES

1. The Hon. Patrick Mariru, MP - 2nd Chairperson of Committees
2. The Hon. Jessica Mbalu, MP - 3rd Chairperson of Committees
3. The Hon. Olago Aluoch, CBS, MP
4. The Hon. Tom Joseph Kajwang', MP
5. The Hon. Richard Maore Maoka, CBS, MP
6. The Hon. Benson Orori Momanyi, CBS, MP
7. The Hon. (Dr.) Pamela Ochieng' Awuor, MP
8. The Hon. David Kiaraho, MP
9. The Hon. Janet Jepkemboi Sitienei, MP
10. The Hon. Alexander Kimutai Kosgey, MP
11. The Hon. Beatrice Adagala, MP
12. The Hon. Gladys Boss Shollei, CBS, MP
13. The Hon. Safia Sheikh Adan, MP

IN ATTENDANCE

1. Mr. Michael Sialai, CBS - Clerk of the National Assembly
2. Mrs. Serah Kioko, MBS - Deputy Clerk (House Affairs)
3. Mr. Jeremiah Ndombi, MBS - Deputy Clerk (Committee Affairs)
4. Mr. Samuel Njoroge - Director, Legislative & Procedural Services

- | | | |
|-----------------------|---|-----------------------------|
| 5. Mr. Ronald Walala | – | Legal Counsel I/PHRC |
| 6. Ms. Getrude Chebet | – | Second Clerk Assistant/PHRC |

MIN./PHRC/06/2022

PRELIMINARIES

The Deputy Speaker (Hon. Moses Cheboi, CBS, MP) called the meeting to order at 10.45am. The meeting was opened with prayers by the Hon. (Dr.) Samuel Pukose, MP and thereafter the Deputy Speaker welcomed the Members present to the meeting.

MIN./PHRC/07/2022

ADOPTION

The Agenda for the meeting was adopted as –

1. Prayers
2. Preliminaries
3. **Briefing on the proposed amendments to the Standing Orders**
4. Any Other Business
5. Date of the next meeting

MIN./PHRC/08/2022

**BRIEFING ON THE PROPOSED
AMENDMENTS TO THE STANDING ORDERS**

The Deputy Speaker invited Mr. Samuel Njoroge, *the Team Leader of the Taskforce on the Review of Rules of Procedure of the National Assembly*, to brief the Committee on the schedule of proposed amendments to Standing Orders. (*Annexed*)

Following the briefing, Members made the following observations –

1. **Standing Order 176 (4): Discharge of Members from the Committee of Privileges**

Regarding proposed amendment to requiring “(4) the Committee to –
“...discharge any Member who contravenes Standing Order 107A (Gross disorderly conduct) or breaches of the code conduct applicable to a Member of Parliament from the Committee of the House responsible for the powers and privileges of the House and the conduct of Members.”

Recommendation: The Committee recommended that the discharge of Members from a Committee be reserved for the Speaker. This is to empower the Speaker to discharge any Member of the Powers and Privileges Committee who commits gross disorderly conduct.

2. Standing Order 204: Committee on Appointments

The Committee declined the proposal to have the Committee on Appointments chaired by the Majority Leader and deputized by Leader of the Minority Party as the First Vice Chairperson and have the Second Vice Chairperson should be elected by Members of the committee.

Observation: The Committee noted that the Speaker who is elected by the House at the beginning of a new Parliament is best suited to Chair the Committee to ensure that the Executive is constituted in good time should parties delay in designating the Leaders of the Majority and Minority Parties after a general election. The Committee therefore ought to be chaired by the Speaker. The committee further proposed that the Membership of the committee be capped at twenty-one (21) from the current twenty-eight (28) Members.

Recommendation: The Committee recommended that the composition of the Committee on Appointments be retained as provided currently but with a reduced membership.

3. New Standing Order 208A: Public Petitions Committee

The Committee recommended that, as part of its mandate, the proposed Public Petitions Committee should receive and handle petitions from the public. Further, that the Standing Order should designate a place and time for picketing by petitioners.

Observation: Following deliberations on the matter, it was noted that The Petitions to Parliament (Procedure) Act, 2012 mandates the Clerk to receive and handle of petitions from the Public.

Recommendation: The Committee recommended that the proposed amendment be pended awaiting the amendment of the Petitions to Parliament (Procedure) Act, 2012.

4. Proposal for establishment of a Committee Diaspora Affairs and Migrant Workers

The Committee proposed that a Committee on Diaspora Affairs and Migrant Workers matters be established to be responsible for, *inter alia*, the protection of the rights of Kenyans and their families in the diaspora, matters relating to diaspora remittances and linkage to economic development and socio-cultural inclusion, examining structures for collaboration and connections for Kenyans in the diaspora, and diaspora suffrage.

Observation: the Committee noted that there was need to create a Committee to exclusively handle matters relating to Kenyans in the diaspora and the attendant facilitation of their rights to participate in the social, economic and political development of the country.

Recommendation: the Committee proposed that the Standing Orders be amended to establish a select committee on diaspora affairs and migration.

5. Access to the Chamber by infants: regarding the proposed amendment by the Member for Kwale County, the Hon. Zuleikha Juma Hassan, MP, on allowing access to the Chamber by infants, the Committee observed that the Parliamentary Service Commission had established a staffed crèche to facilitate lactating Members to attend and participate in sittings of the House and hence there was no need to make a provision on the same in the rules.

Recommendation: Following further deliberations on this matter, the Committee noted that the crèche as currently situated is not easily accessible from the Main National Assembly Chamber. The Committee agreed that the Commission should consider relocating the crèche to a more convenient place within the Main Parliament building preferably on the ground floor and expand the facility to include appropriate rooms for lactating mothers and an outdoor play area for the infants.

MIN./PHRC/009/2022:

**CONSIDERATION AND ADOPTION OF THE
DRAFT REPORT OF THE PROCEDURE &
HOUSE RULES COMMITTEE ON
AMENDMENTS TO THE STANDING ORDERS**

The Committee, after consideration of the Report, unanimously adopted the Draft Fifth Report of the Procedure & House Rules Committee on Amendments to the Standing Orders as proposed by Hon. (Dr) Robert Pukose, MP and Seconded by Hon. Gathoni Wamuchomba, MP.

MIN./PHRC/010/2022

**ADJOURNMENT AND DATE OF THE NEXT
MEETING**

There being no other business, the Deputy Speaker adjourned the meeting at ten minutes to one o'clock. The next meeting shall be by notice.

Sign:


(Chairperson)

Date:


ANNEXURE 4

Speaker's Communication of 23rd September, 2021 on
Review of the Standing Orders



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

COMMUNICATION FROM THE CHAIR

(No. 38 of 2021)

ON

REVIEW OF THE NATIONAL ASSEMBLY STANDING ORDERS

Honourable Members,

As you are aware, it is the practice of every House to undertake a review of the rules of procedure towards the end of its term for use by subsequent Houses. The review process, which takes about a year and culminates with submission and adoption of a report by the House, is largely steered by senior parliamentary staff with the guidance of the Procedure and House Rules Committee chaired by the Speaker. Further, Standing Order 264 requires the Procedure and House Rules Committee to review the Standing Orders and recommend any amendments at least once every term of Parliament for consideration by the House.

Honourable Members, this practice, principally adopted from other established commonwealth jurisdictions, has been useful in affording Members an opportunity to enrich the rules of procedure based on their experiences and empirical interaction with the various provisions. The regular usage of the rules by Members, both in plenary and in Committee work, undoubtedly provides Members with first-hand experience on their applicability.

It is on this basis **Honourable Members**, that the review process becomes important for future Parliaments as it is premised on views of the actual users of the rules of procedure. Members are therefore best placed to highlight gaps which help in continually improving and making the rules more practical and responsive to the ever-evolving environment within the institution apart from learning from legislatures in comparable jurisdictions where individual Hon. Members and Committees have visited, and how the rules of procedure remain anchored within our nascent constitutional framework.

Honourable Members, from the foregoing and in keeping with this practice, the Clerk of the National Assembly, in consultation with the Procedure and House Rules Committee has constituted a **technical team** to commence the process of collation of views and any proposed amendments to the Standing Orders as part of the end-of-term review. In this regard, Committees of the House, Members and staff are encouraged to proffer any proposed amendments they may have on the current rules of procedure. Specifically, Committees are called upon to candidly look into and review the workings of our committee system, including ensuring constitutional and statutory compliance, and to make proposals for improvement. Additionally, Committees may consider the legislative oversight mechanisms currently in place and highlight any gaps or neglected areas that require improvement. Suffice to say that individual **Honourable Members** are free to propose amendments to any part of the Standing Orders for collation by the technical team and consideration by the Procedure and House Rules Committee.

The proposed amendments or general views should be channeled to the Committee through the office of the Clerk of the National Assembly by way of written submissions. Additionally, views will also be sought from the public and other external stakeholders in keeping with the requirements of Article 118 of the Constitution. The Committee will thereafter report to the House, isolating any provisions it may recommend for amendment or repeal. It is envisaged that this process of collation will be concluded by **15th November, 2021**. You are therefore encouraged to give your views before then.

Honourable Members, In considering the proposals from the various stakeholders, I implore the Procedure and House Rules Committee under the leadership of my very able deputy, the Hon. Moses Cheboi, CBS, MP, not to shy away from genuinely relooking at all the provisions in our current Standing Orders, including –

- (a) The system of governance and bicameral nature of our legislature;
- (b) The subsisting committee system focusing on areas such as size, composition, operations, effectiveness and efficiency of our Committees;
- (c) Areas of improvement in the general parliamentary oversight focusing on any aspects or areas that may not have received due attention, including but not limited to our budget processes and oversight mechanisms over the national debt;
- (d) The place of and mechanisms for consideration of the reports submitted to the House by Cabinet Secretaries under Article 153(4)(b) of the Constitution;
- (e) The place of Constitutional Commissions & Independent Offices and their place in our rules of procedure including the consideration of their

reports submitted to the House pursuant to the provisions of Article 254 of the Constitution; and,

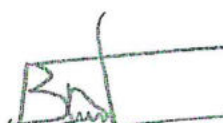
- (f) Consideration of the various Speaker's rulings, as well as judicial decisions that have a bearing on the procedures of the House.

In this regard **Honourable Members**, as your Speaker and the Chairperson of the Procedure and House Rules Committee, I therefore –

1. **Notify the House of the commencement of this important exercise being the end-of-term review of the rules of procedure of the House;**
2. **Invite all Hon. Members to make written submissions to the Committee on ANY areas they feel require review or repeal;**
3. **Require the Procedure and House Rules Committee to arrange meetings with the Leaderships of the House, including Committee Leadership, to seek their views on areas requiring review in our rules of procedure; and,**
4. **Require the Clerk of the National Assembly to facilitate the process of seeking views of the public and other external stakeholders, by way of invitations in the media.**

The House is accordingly guided.

I thank you!



THE HON. JUSTIN B. N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Thursday, 23rd September, 2021

ANNEXURE 5

Call to the public on submission of memoranda

2022 polls Among those eyeing ODM ticket are William Kingi, Abdulswamad Nassir and Suleiman Shahbal

I have no preferred successor, says Joho

Mombasa governor says he will not endorse any candidate ahead of next year's gubernatorial race

BY WINNIE ATIENO

Faced with a dilemma of endorsing his deputy yet two of his close associates are also jostling to succeed him, Governor Hassan Joho has opted not to take sides in the Mombasa county chief's contest.

While Mr William Kingi has been his loyal deputy during the second term, the entry into the gubernatorial race by his long-time backer Mvita MP Abdulswamad Nassir and rival-turned-ally businessman Suleiman Shahbal has the governor at crossroads.

The three are eyeing the ODM ticket to run for the governor's seat in a contest that has also attracted Kisumu MP Ali Mboogo (Wiper) and former Mombasa Senator Hassan Omar of the United Democratic Alliance (UDA).

Dr Kingi, who has been Mr Joho's second-in-command since 2017 when the governor fell out with his former deputy, is banking on their cordial relations to secure the governor's support.



The former lecturer has been managing county affairs whenever his boss is away for official and business trips abroad, sometimes even for months.

Mr Joho has praised him as a competent leader.

"There was no leadership vacuum; my able deputy is always in

charge. He is very competent," Mr Joho said responding to criticism that he was abdicating his duty as county chief given his long absence.

Mr Shahbal, Mr Joho's arch rival in the 2013 and 2017 elections, recently defected from the ruling Jubilee party to join ODM where

Mvita MP Abdulswamad Nassir (left), Mombasa Governor Hassan Joho (second left) and deputy governor William Kingi (second right) with other county leaders during a function in Mombasa in January 2020. KEVIN ODITI/NATION

My brothers who are fighting for the governor's seat, may God wish you well. Let them fight for their positions

Governor Hassan Joho



Mr Joho is the deputy party leader.

Since the governor's re-election in 2017, the two have mended fences and Mr Shahbal has joined the governor in initiating projects, the latest being Sh6 billion Lixton housing project.

In 2017, when Mr Joho won with 221,177 votes, Mr Shahbal was runner-up with 69,515 votes while Mr Omar, then a Wiper candidate, garnered 43,787 votes.

Mr Nassir, son of the late veteran Eban politician Sharif Nassir, had hoped that being an ODM

MP, and one close to both Mr Joho and ODM party leader Raila Odinga, he would secure the governor's endorsement.

Both Mr Nassir and Dr Kingi have openly tried to persuade the governor to back them, often in forums where both are in attendance, an appeal Mr Joho has avoided to commit to until recently when he declared he had no preferred successor.

On Monday, in the presence of the two, Mr Joho announced he will not endorse anyone ahead of next year's General Elections.

He asked the aspirants to fight it out.

"My brothers who are fighting for the governor's seat, may God wish you well. Let them fight for their positions. I have done enough and next year will leave the office," responded Mr Joho.

However, the governor urged the aspirants to ensure his legacy on cohesion is maintained.

"Our diversity is our strength. Let's abhor ethnicity," he said.

Dr Kingi has been urging the residents to elect him in next year's polls to allow him complete pending projects.

watiemo@nationmedia.com



REPUBLIC OF KENYA

TWELFTH PARLIAMENT—FIFTH SESSION THE NATIONAL ASSEMBLY

IN THE MATTER OF THE REVIEW OF THE NATIONAL ASSEMBLY STANDING ORDERS

INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA

WHEREAS Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees";

FURTHER WHEREAS Standing Order 264 of the National Assembly Standing Orders provides that "At least once in every term of Parliament, the Procedure and House Rules Committee shall review the Standing Orders and make a report to the House recommending the Standing Orders, if any, to be amended";

AND WHEREAS the Procedure and House Rules Committee of the National Assembly has commenced the process of review of the National Assembly Standing Orders and related practices and procedures of the House in preparation for the Thirteenth Parliament;

NOW THEREFORE, pursuant to the provisions of Article 118(1)(b) of the Constitution, the Clerk of the National Assembly invites interested members of the public to submit written memoranda outlining any areas they may wish reviewed explaining the justification for each proposed amendment(s). Possible areas of amendments may include provisions relating to—

- How Kenya's system of governance and bicameral nature of the legislature has been actualised in the Standing Orders of the National Assembly;
- The existing committee system focusing on areas such as size, composition, operations, effectiveness and efficiency;
- Areas of improvement in the general parliamentary oversight focusing on any aspects or areas that may not have received due attention, including but not limited to the budget processes and oversight mechanisms over the national debt;
- The place of, and mechanisms for, consideration of the reports submitted to the National Assembly by Cabinet Secretaries under Article 153(1)(b) of the Constitution;
- Constitutional Commissions & Independent Office and their place in the rules of procedure including the consideration of the reports submitted to the House pursuant to Article 254 of the Constitution;
- Constitution of the various Speaker's rulings, as well as judicial decisions that have a bearing on the procedures of the House and;
- Any specific or general Standing Order, practice or procedure of the National Assembly that requires amendment or repeal.

The Memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41643-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke to be received on or before, Wednesday, 17th October 2021 at 5:00 pm. The National Assembly Standing Orders can be accessed on the Parliament Website at www.parliament.go.ke

MICHAEL SALALI CBS
CLERK OF THE NATIONAL ASSEMBLY
29th September 2021

"For the Welfare of Society and the good Government of the People"
"The National Assembly speaks for you, Our results speak for themselves"



The Eastern and Southern African Management Institute (ESAMI)

DUBAI & TURKEY COURSES: OCTOBER - DECEMBER, 2021
NITA/TRN/1123

S/N	PROGRAMME TITLE	START DATE	END DATE	WEEKS	VENUE
1	Building Strategic Agility: The Leadership Paradigm	18-Oct-21	22-Oct-21	1	Dubai
2	Leadership for Results	18-Oct-21	29-Oct-21	2	Dubai
3	Project Planning and Implementation	25-Oct-21	29-Oct-21	1	Dubai
4	Enhancing Organizational Effectiveness	25-Oct-21	29-Oct-21	1	Dubai
5	Protocol and Events Management	1-Nov-21	12-Nov-21	2	Dubai
6	Public Policy Designing and Management	1-Nov-21	12-Nov-21	2	Dubai
7	Leadership & Policy Implementation	1-Nov-21	12-Nov-21	2	Dubai
8	Realizing Mission and Vision: The Leadership Challenge	1-Nov-21	12-Nov-21	2	Turkey
9	Emerging Trends in Human Resources (HR) Management	8-Nov-21	12-Nov-21	1	Dubai
10	Public Sector Financial Management	8-Nov-21	12-Nov-21	1	Dubai
11	Strategic Leadership and Governance	15-Nov-21	19-Nov-21	1	Dubai
12	Climate Change Responses and Approaches: Roles and Responsibilities of the Leaders	15-Nov-21	19-Nov-21	1	Turkey
13	Senior Management Development	22-Nov-21	3-Dec-21	2	Dubai
14	Leading Change in Turbulent Environment	22-Nov-21	3-Dec-21	2	Dubai
15	Leadership Development Skills for Members of Parliament	29-Nov-21	3-Dec-21	1	Dubai
16	Building Strategic Agility: The Leadership Paradigm	6-Dec-21	10-Dec-21	1	Turkey
17	Transformative Leadership for Implementing Public Sector Reforms in Africa	6-Dec-21	10-Dec-21	1	Dubai
18	Cascading the Balanced Scorecard	6-Dec-21	10-Dec-21	1	Dubai
19	Public Sector Governance and Budgetary Reforms	6-Dec-21	17-Dec-21	2	Dubai
20	Strategic Performance Management	6-Dec-21	17-Dec-21	2	Dubai
21	Training Needs Assessment and Evaluation of Training	13-Dec-21	17-Dec-21	1	Dubai
22	Strategic Communication Skills for Women Leaders	13-Dec-21	17-Dec-21	1	Dubai
23	Global Warming: Green House Gas Emissions & Impact on Climate Change	13-Dec-21	17-Dec-21	1	Turkey
24	Advanced Public Relations and Stakeholder Management	13-Dec-21	17-Dec-21	1	Dubai

ESAMI GENERAL (Nairobi) OCTOBER 2021 INTAKE ON-GOING

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Mistrust, betrayal among leaders pushed Nasa alliance to its death

► Registrar of parties confirms that 2017 coalition has been formally dissolved.

► Co-principals have pointed out that Raila was insincere.

BIRIAN OTIENO, NAIROBI

It has been a month since the National Super Alliance (Nasa) - formed to rival President Uhuru Kenyatta's Jubilee Party in 2017 - was dissolved, an inevitable fate for the moribund formation. In a notice, Registrar of Political Parties yesterday confirmed what the country has known since August - that Nasa was no more.

...the Nasa coalition comprising Amani National Congress (ANC), Chama Cha Mashinani, Ford-Kenya party, Orange Democratic Movement (ODM), and Wiper Democratic Movement-Kenya was dissolved on August 26, read the notice in part.

Mistrust, alleged betrayal and competing ambitions are among the blows that sent Nasa - standing on wobbly feet since former Prime Min-

ister Raila Odinga's mock swearing-in ceremony in January 2018 - to the canvas.

But to move forward it was necessary that the Nasa co-principals let go of their union.

For starters, Raila, Nasa's presidential candidate in 2017, needed to rid himself of the baggage of his promise to support one of the co-principals in next year's polls.

A surviving Nasa would have tied him to his promise, even though the ODM leader had dismissed claims of shelving his presidential ambitions to back either Kalonzo Musyoka (Wiper), Musalia Mudavadi (ANC) or Moses Wetangula (Ford-Kenya).

Raila has previously stated that the deal only held if he were to win the 2017 presidential election. The former premier is not the only one who benefited from the dissolution of the coalition.

Barred from belonging to any other coalitions by law, the remaining co-principals had to leave the old outfit. That was solved upon Nasa dissolution last month, after Kalonzo, Mudavadi and Wetangula announced their departure.



"The statement by Raila that he'll not endorse any of his Nasa colleagues because they failed to show up at his illegal swearing-in reeks of indefensible deceit."

For months now, the three leaders and Kanu chair Gideon Moi have been brooding the One Kenya Alliance (OKA), touted as the third force in next year's contest.

The only hurdle in their plans to form OKA is that Kanu is still in a coalition with Jubilee.

Like Raila, the other co-principals harbour presidential ambitions. OKA currently places Kalonzo and Mudavadi, who have declared that they will contest the presidency along with Gideon, at a better negotiating place.

The statement by Raila Odinga that he'll not endorse any of his Nasa colleagues because they failed to show up at his illegal swearing-in is unfortunate and reeks of indefensible deceit," Mudavadi said in February in a statement by his Spokesman Kibisu Kabetei.

And the betrayal does not end there. Until July, Raila's party had been reluctant to share political parties' funds with his coalition partners, a stand that contributed to the fall of Nasa. Amid all this mistrust, Nasa stood no chance of success.

bowino@standardmedia.co.ke

2022 RACE

Raila, PNU strike coalition agreement ahead of elections

ODM and the Party of National Unity (PNU) have agreed to work together in next year's election.

The agreement was reached during the ODM leader Raila Odinga's three-day visit to Mt Kenya region. The parties are now drafting the document to seal their deal.

ODM team comprised secretary-general Edwin Sifuna, chairman John Mbadi and chair of elections board Junet Mohamed. The PNU was represented by secretary-general John Anunda, chairman David Kamau and the elections board chairman Abdi Sheikh.

Each party picked lawyers to move the process forward and Kamau said they expect to have made significant progress on the matter by the end of the week.

He said PNU would support Raila's candidacy. "The issue of the presidential candidate to be fronted is not in contention. That we can tell you is going to be Raila Odinga," said Kamau.

He noted that the parties worked together well during the Grand Coalition government. "This government delivered the 2010 Constitution, an enviable growth rate and the foundation of Vision 2030 economic blue print," added Kamau. [Wainaina Ndung'u]



REPUBLIC OF KENYA TWELFTH PARLIAMENT—FIFTH SESSION THE NATIONAL ASSEMBLY

IN THE MATTER OF THE REVIEW OF THE NATIONAL ASSEMBLY STANDING ORDERS

INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA

WHEREAS Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees";

FURTHER WHEREAS Standing Order 284 of the National Assembly Standing Orders provides that "At least once in every term of Parliament, the Procedure and House Rules Committee shall review the Standing Orders and make a report to the House recommending the Standing Orders, if any, to be amended";

AND WHEREAS the Procedure and House Rules Committee of the National Assembly has commenced the process of review of the National Assembly Standing Orders and related practices and procedures of the House in preparation for the Thirteenth Parliament;

NOW THEREFORE, pursuant to the provisions of Article 118(1)(b) of the Constitution, the Clerk of the National Assembly invites interested members of the public to submit written memoranda outlining any areas they may wish reviewed explaining the justification for each proposed amendment(s). Possible areas of amendments may include provisions relating to -

- How Kenya's system of governance and bicameral nature of the legislature has been actualized in the Standing Orders of the National Assembly;
- The existing committee system focusing on areas such as size, composition, operations, effectiveness and efficiency;
- Areas of improvement in the general parliamentary oversight focusing on any aspects or areas that may not have received due attention, including but not limited to the budget processes and oversight mechanisms over the national debt;
- The place of, and mechanisms for, consideration of the reports submitted to the National Assembly by Cabinet Secretaries under Article 153(4)(b) of the Constitution;
- Constitutional Commissions & Independent Offices and their place in the rules of procedure including the consideration of the reports submitted to the House pursuant to Article 254 of the Constitution;
- Consideration of the various Speaker's rulings, as well as judicial decisions that have a bearing on the procedures of the House; and;
- Any specific or general Standing Order, practice or procedure of the National Assembly that requires amendment or repeal.

The Memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41042-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi; or emailed to secretary@kenya.go.ke to be received on or before, Wednesday, 13th October 2021 at 5:00 pm. The National Assembly Standing Orders can be accessed on the Parliament Website at <http://www.parliament.go.ke>.

MICHAEL SALALI, CBS
CLERK OF THE NATIONAL ASSEMBLY
29th September 2021

APPOINTMENT OF A DIRECTOR AND CHAIRMAN OF THE BOARD

The Board of Directors of TotalEnergies Marketing Kenya Plc is pleased to announce the appointment of Mr. Olivier Van Parys as a Director and Chairman of the Board with effect from 2nd September 2021.

Mr. Van Parys holds a Bachelor's Degree in Civil Mechanical Engineering from Catholic University of Louvain. He is also a holder of specialized engineering graduate degree in Automotive Engine Engineering from ENSPM (IFP School).



Mr. Van Parys has worked for the TotalEnergies Company for the last 26 years and has progressively and diligently served in various senior positions including Lubricant Engineer for the Company's Research Centre Unit in Le Havre, France, Product Development Engineer for Lubricants (Paris La Defense, France), Regional Specialties Manager at TotalEnergies (East Africa), Marketing Manager at TotalEnergies Madagascar SA, Operation Director at TotalEnergies affiliate which manages its French retail network, Managing Director at TotalEnergies Marketing Congo, Managing Director at TPG Plc in Ghana and Managing Director at TotalEnergies Marketing Nederland NV.

Currently, he is the Executive Vice President of East and Central Africa division of the TotalEnergies Marketing Services branch (Paris La Defense, France).

The Board of Directors wishes to extend its gratitude to the outgoing Chairman, Mr. Jean-Philippe Torres, who resigned as a Director and Chairman of the Board with effect from 21st September 2021, for his immense contributions to the company during his tenure and wish him the very best in his new assignment within the TotalEnergies Company.

BY ORDER OF THE BOARD

J. L. B. MAGIGA
COMPANY SECRETARY



ANNEXURE 6

Submissions

**The Constitutional Implementation Oversight
Committee (CIOC)**

**THE NATIONAL ASSEMBLY
DIRECTORATE OF AUDIT, APPROPRIATIONS & OTHER
SELECT COMMITTEES**

INTERNAL MEMO

TO: DIRECTOR, LEGISLATIVE AND PROCEDURAL SERVICES

THRO': DIRECTOR *For recorded*
19/10/2021

FROM: SENIOR LEGAL COUNSEL & CLERK, CIOC

DATE: 19TH OCTOBER, 2021

SUBJECT: CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE
PROPOSAL ON AMENDMENT OF THE STANDING ORDERS

The Constitutional Implementation Oversight Committee (CIOC) at its meeting held on Tuesday, 12th October, 2021 considered the Standing Orders of the National Assembly and recommended various amendments as attached to be incorporated in the Standing Orders.



Edward Libendi

Mr. Maita Danyika
To note, and bring during
consideration of
views from leadership of
also propose amendments to
LCMA to be signed by
D/C
19/10/21

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE
PROPOSAL ON AMENDMENT OF THE STANDING ORDERS OF THE NATIONAL
ASSEMBLY

1. Standing Order 83: Points of Order:

Amend by requiring the Member who wishes to raise a point of Order to rise on his feet rather than pressing the intervention button on the Chamber electronic system as is the case. This will ensure openness and transparency and avail Members who have queries on procedure to have their say. The amendment to read as follows:

S.O 83(1a) Any Member wishing to raise a point of order in (i) above shall rise on his feet and inform the Speaker of the same by saying the words "POINT OF ORDER!" and proceed to indicate the Standing Order upon which the point of order is based.

2. S.O 141: Lapse and Re-Introduction of Bills:

The Committee proposes that a Bill consideration of which has not been concluded at the end of the term of a Parliament should not lapse but may be taken over by any Committee or any Member with written consent of the original mover at the stage at which the Bill was, subject to republication in the name of the new Mover.

S.O. 141 (4A): Delete Standing Order 141(4) and replace with the following:

"A Bill, the consideration of which has not been concluded at the end of the term of a Parliament shall not lapse and it may be re-introduced by any Member or Committee for consideration in the House at the stage it had reached at the end of the term of parliament, after republication in the name of the new sponsor.

3. CIOC to be incorporated in the SOs:

The Committee proposes that the Constitutional Implementation Oversight Committee incorporated in the Standing Orders and its membership and mandate included.

The new rule to read as follows:

S.O 212E (1) *The Constitutional Implementation Oversight Committee established under section 4 of the sixth schedule to the Constitution shall consist of a Chairperson and not more than twenty-two other Members.*

(2) In the membership of the Constitutional Implementation Oversight Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(3) The Committee shall be responsible for the following functions in addition to those listed in section 4 of the Sixth Schedule to the Constitution:

- (a) Monitoring implementation of the Constitution;
- (b) Consideration of Bills to amend the Constitution after first reading in accordance with Standing Order 127
- (c) Oversee the day to day operations of Constitutional Commissions including but not limited to the above:
 - i. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the Constitutional Commissions;
 - ii. Investigate and inquire into all matters relating to the Constitutional Commissions, as they may deem necessary and as may be referred to them by the House;
 - iii. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve;
 - iv. Consider reports of the Constitutional Commissions submitted to the House pursuant to Article 254;
 - v. Examine any questions raised by Members on a matter within its mandate.

4. Expedite processing of Bills:

- (a) The Committee proposes that the processing of Bills in the House be expedited so that Bills prepared by Members can be presented in the House for consideration without delays.
- (b) In addition, amend the Standing Orders in order to reduce the bureaucracy involved at pre-publication stage and after Speaker has approved a Bill for publication, the Bill should be sent for publication within seven (7) days and be introduced for first reading on the next sitting day after maturity of the Bill.
- (c) After first reading, the Bill should be introduced for second reading within 30 days of tabling of the Committee report or in accordance with Standing Order 127 (4).

- (d) Standing Order 114 should be amended so that any Committee to which a Legislative proposal is committed for pre-publication scrutiny or the Budget and Appropriations Committee in the case of a draft Money Bill, the Committee shall consider it and submit its report to the Speaker within 30 days of receipt of the legislative proposal.

A handwritten signature in blue ink, appearing to be 'Jeremiah Kioni', written over several horizontal blue lines.

HON. JEREMIAH KIONI, M.P.

**CHAIRMAN, CONSTITUTIONAL IMPLEMENTATION OVERSIGHT
COMMITTEE**

**The Member for Garissa Township,
The Hon. Aden Duale, EGH, MP**



REPUBLIC OF KENYA
PARLIAMENT

NATIONAL ASSEMBLY
RECEIVED

25 JAN 2022

Hon. Aden Bare Duale, EGH, MP.
Garissa Township Constituency
Former Leader of Majority Party, National Assembly
P.O. Box 41842, NAIROBI.

SPEAKER'S OFFICE

Tel: 254 20 2221291
Mobile: +254 722 759 866
Email: adendualle@gmail.com

Parliament Buildings
P. O. Box 41842 - 00100
Nairobi, Kenya

Ref: CON/VOL.I/2022/14

Date: 5th January, 2022

The Hon. J. B.N Muturi, EGH, MP,
Speaker of the National Assembly,
Parliament Buildings,
P.O. Box 41842-00100,
NAIROBI.

These proposals are hereby
referred to the Procedure and
House Rules Committee.

Dear Sir,

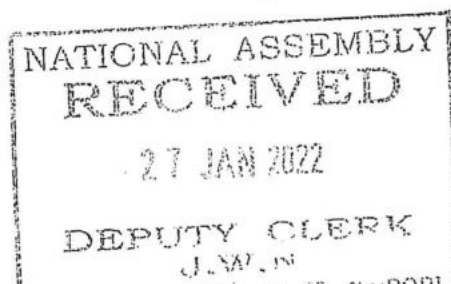
SWA
26/01/2022

**RE: PROPOSED AMENDMENTS TO THE NATIONAL ASSEMBLY
STANDING ORDERS**

The above matter refers.

The Procedure and House Rules Committee is established pursuant to Standing Order 208 and is mandated to propose amendments to the Standing Orders and rules for the orderly and effective conduct of the House and Committee business.

Pursuant to Standing Order 264, at least once in every term of Parliament, the Procedure and House Rules Committee is also mandated to undertake a review of the Standing Orders and make a report to the House recommending the Standing Orders, if any, to be amended. In this regard and as is practice that at the end of the term of each Parliament, the Committee usually proposes amendments to the Standing Orders on such matters as may be



✓ ③ Mr. Muturi/Mr. Muturi
To table before the
Proc & HR
Comm. 5
31/1/22 MM

informed by practice and experience during the term of Parliament, I hereby make proposals for the following amendments:

Omni-Bus Bills

1. Omni-Bus Bills being Bills that allow the House to amend several legislations or statutes at a go have gained prominence and traction as the most effective Bills that can allow the House legislate on several areas at once hence making the legislative process efficient.
2. Indeed, the House has on a number of occasions considered and passed Omni-Bus Bills among them being the Tax Laws (Amendment) Bill now an Act, Statute Laws (Miscellaneous Amendments) Bills, Finance Bills and several health-related Bills most of which have largely been from the Executive.
3. However, Members have never sponsored Omni-Bus Bills largely due to misconceptions that such Bills can only emanate from the Executive and secondly that such Bills are often subject to challenge in court.
4. This is not however the case and indeed based on all the court cases where Omni-Bus Bills have been challenged, it has always been on grounds of inadequate public participation. In this regard, if the Bills are properly processed including by adhering to the dictates of Article 118 of the Constitution, Omni-Bus Bills can be a route through which the House can attain maximum efficacy in exercising its legislative constitutional function.
5. In this regard and owing to the uniqueness of Omni-Bus Bills, there is need to amend the Standing Orders to entrench the process of introduction of Omni-Bus Bills including by private

Members. The Standing Orders should define among other things:

- (a) when such Bills can be used;
- (b) that such Bills should be referred to different Committees;
- (c) provide for longer periods of public participation from the current 21 days as provided for in Standing Order 127 to 45 days to allow for adequate public participation.

Strengthening of Leadership Offices

6. From my experience as a former Leader of the Majority Party and in particular as the leader of government business in the House, it was imperative that I caucused with Members by explaining the party position on the legislative agenda in the House. However, there existed no structures to engage the Members.
7. Looking at comparative jurisdictions, in the US Congress and the UK House of Commons, there are structures in place to facilitate consultative meetings between the Leaders and the Members of the Congress and the House of Commons. During these meetings, the Leaders get an opportunity to explain the legislative agenda of for instance the Republican Party in the case of the US Congress or the Labour Party in the case of the UK House of Commons and inform the Members on which legislative agenda to support in the House. To this end, I implore the Committee to consider amending the Standing Orders to create such structures.

Processing of Members' Personal Data

8. As it is presently, apart from the Parliament Website, there exists no data base which contains Members' personal data or information. There is hence need for Members' personal data to be codified by amending the Standing Orders to provide that the Clerk shall keep and be the custodian of Members' personal data and further require the Clerk to regularly update the personal data.
9. The amendments should also require the Members to provide personal data to the Clerk detailing among other things: names of a Member, Political Party, Constituency, Committee assigned, current and former leadership positions if any, education and professional experience **(optional)** and any other relevant information.

Processing of Legislative Proposals

10. The procedure of processing legislative proposals is provided for in Standing Order 114. However, the experience of Members who have sponsored legislative proposals is that the pre-publication scrutiny process as currently couched in Standing Order 114 is lengthy and protracted and the net effect has been that the legislative ideas of Members often hit a dead end.
11. Indeed, it is on record that a legislative proposal to amend the Elections Act, 2011 by Hon. Jude Njomo stayed for a record three years in a Departmental Committee.
12. This explains why in the Senate, most legislative proposals for Senators normally see the light of the day in terms of publication as they do not have similar processes as the one envisaged in Standing Order 114.

13. Whereas the pre-publication scrutiny is a very critical process of filtering wheat from the chaff, it is imperative that Standing Order 114 be further amended to allow the House to recall legislative proposals and the Speaker to approve the proposals for publication:

- (a) where the Budget and Appropriations Committee has considered a legislative proposal and recommended that the legislative proposal does proceed; and
- (b) the Departmental Committee has delayed in considering and concluding on the legislative proposal within the timelines set out in Standing Order 114(7) being 21 days.

14. It is worth noting that in 2019, the Speaker recalled several legislative proposals that had stalled in Committees for long and approved that they do proceed for publication in furtherance of the legislative functions of the House. It is my view that this practice needs to be codified.

Improving on Committees Efficiency

15. Committees form the engine through which the House executes its duties. Effective Committees means an effective House and the vice-verse is also true. In this regard, the Committee should consider streamlining:

- (a) the mandates of the Committees where the mandate is broad as this may affect specialization hence causing inefficiency;
- (b) the membership of the Committees; and
- (c) Creation of additional Committees to deal with emerging issues.

16. In this regard, I wish to propose the following:

- (a) That a Departmental Committee on Children and Youth be established to deal with Children and Youth matters. These areas are currently sandwiched in the Committee on Labour and Social Welfare and hence lost in there and not given the due regard they deserve. It is estimated that out of a population of 50 Million, 35.7 Million are youth.
- (b) That a Departmental Committee on National Debt and Debt Management be established to deal with among other things the national debt, debt management and oversight of public and private partnerships. This is an imperative subject matter which should not also be sandwiched in the Budget and Appropriations Committee which specializes in dealing with budget matters. With the skyrocketing national debt and the warnings by international financial institutions, that our national debt is at risky levels, there is need for a dedicated Committee to look into our national debt.
- (c) That the Defence and Foreign Affairs be split into two Committees to establish a Departmental Committee on Defence and a Departmental Committee on Foreign Affairs. The two thematic areas should not be cojoined.
- (d) That the Departmental Committee on Transport, Public Works and Housing be split into two Committees to establish a Departmental Committee on Transport and Public Works and a Departmental Committee on Housing. One of the pillars of the Big Four Agenda is housing and hence there is need for a Committee to specialize on matters housing which have often not be given prominence

as presently the Committee only focuses on matters transport and public works.

- (e) That the Procedure Committee does explore establishing a Committee on General Oversight to allow Cabinet Secretaries to attend the House to respond to questions of a topical nature on a specified date, once a month. It is notable that whereas there have been arguments that such a proposal would offend the principle of separation of power, the Constitution does not prohibit such a structure and indeed if established this would promote the efficiency of the House and its Committee in performing its oversight role.
- (f) That the membership of Departmental Committees be reduced from 19 members to 15 members.
- (g) That noting the Statutory Instruments Act No. 23 of 2013 does not require the Delegated Legislation Committee to make a report to the House when it recommends approval of statutory instruments, the Standing Orders should be amended to require the Committee to make periodic reports to the House on what statutory instruments it has approved and does not require the approval of the House.
- (h) Further, the Standing Orders should be amended to require regulatory making authorities to provide feedback or reports to the Committee on Delegated Legislation where a report of the Committee had recommended annulment. The feedback to the Committee should contain evidence that the regulatory authority has annulled the statutory instruments as recommended by the Committee in order to ensure implementation.

Bills to amend the Constitution

17. A Bill to amend the Constitution is sui generis. It is unique and different from an ordinary Bill and hence the Standing Orders ought to recognize the unique nature of Bills to amend the Constitution in particular in the wake of Court of Appeal and the High Court judgement which affirmed that the basic structure applies in Kenya. The matter is now pending in the Supreme Court.
18. Hon. Speaker, you have severally guided the House on the need to exercise caution and the need for guarded restraint in proposing Bills to amend the Constitution noting the Constitution is a living document that was made by the people for the people of Kenya.
19. In this regard, it is my considered opinion that there is need to raise the bar for amending the Constitution so that it is not treated just like any other Bill. Indeed, this is the reason why the architecture of Articles 255, 256 and 257 of the Constitution take the form of a consultative and public mandated process.
20. To this end, I propose that the Standing Orders be amended to among other things:
 - (a) Raise the bar for introduction of such Bills;
 - (b) Require a Member to collect signatures of at least 50 Members before initiating such a Bill and also before such a Bill is published;
 - (c) The memorandum of objects does contain a statement on whether in the opinion of the Member, the Bill contains provisions that touch on the basic structure;

- (d) Define the power of the Speaker to decline to approve the publication of a Bill that seeks to amend "the Basic Structure" of the Constitution;
- (e) Provide that a Bill to amend the Constitution which does not pass may not be reintroduced in the same Parliament or session of Parliament;
- (f) Define the extent of public participation required before the publication of a Bill to amend the Constitution;
- (g) Provide that you cannot have closure of debate or adjournment of debate for a Bill to amend the Constitution in terms of Standing Orders 95 and 96; and
- (h) Provide that the debate for a Bill to amend the Constitution should not be for less than 14 sitting days to allow for public discussion and debate at Second Reading noting there are no amendments to be made to the Bill. To this end, each Member should be allocated not less than 30 minutes.

Points of Order and request to the Speaker

21. As it is presently, the Leader of Majority and Minority Parties do not rise on their places whenever a Member raises a Point of Order in terms of Standing Order 83. This denies the Members a chance to appreciate that their Leaders may want to speak on a certain Point of Order and hence lack guidance and leadership. I therefore propose that the Standing Orders be amended to allow the Leader of Majority and Minority Parties to rise on their places whenever a Member raises a Point of Order if they deem fit.

22. The Procedure of discharges of members of committee should not apply to the removal of Chairs and Vice Chairs for their Committee because there is a separate procedures for the removal as provided for in Standing Orders.

In light of the foregoing and pursuant to Standing Order 264, I request that the Committee on Procedure and House Rules does consider making the proposed amendments to the Standing Orders as they shall go along way in improving on the efficiency of the manner in which the House executes its constitutional mandate.

This is submitted for your kind consideration.

Yours



**THE HON. ADEN DUALE, EGH, MP,
MEMBER FOR GARISSA TOWN CONSTITUENCY**

The Parliamentary Caucus on Business & Economy

③ Mr. Mairi, Walter
for review and presentation
to the Committee.
1/2/22



REPUBLIC OF KENYA
PARLIAMENT

② DL 89
8
1/2/22

Parliamentary Caucus on Business and Economy

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Hon. Justin B. N. Muturi, E.G.H., MP
Speaker and Chairperson of the
Procedure and House Rules Committee,
Parliament Buildings, Parliament Road
P. O. Box 41842-00100
NAIROBI

Dear Sir,

① CNA
Referred to the Procedure and
House Rules Committee.
But SNA
31/01/2022

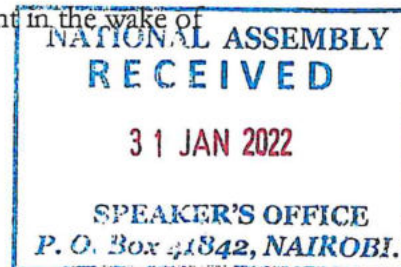
January 17, 2022

RE: REVIEW OF THE NATIONAL ASSEMBLY STANDING ORDERS TO CREATE A SELECT COMMITTEE ON ECONOMIC TREATIES RATIFICATION

Reference is made of the above-mentioned subject matter and the *Speakers Communication No. 38 of 2021 dated 27th September, 2021 on Review of the National Assembly Standing Orders*. In the communication, the Speaker among other directives, invited Honourable Members to make written submissions to the Speaker and Chairperson of the Procedure and House Rules Committee on ANY areas they feel require review or repeal.

The Parliamentary Caucus on Business and Economy held a retreat meeting in Naivasha, Nakuru County on December 03, 2021, and among the agenda was Review of the National Assembly Standing Orders:

The **Parliamentary Caucus on Economy and Business** has championed and deliberated on various issues regarding the economy and ways of doing business in the country and in particular has been keen on the ratification of treaties with economic consequences by the country. The **Caucus constitutes of over Thirty-Five (35) Members from the National Assembly, Chaired by the Hon. Jude Njomo, MP, Member for Kiambu Town Constituency**. The purpose of the caucus is to come up with solutions to the ailing economy and business environment in the wake of



challenges faced by the public; to play a bipartisan role and complement the Parliamentary Departmental Committees in regard to matters on Trade, Finance, Planning, Budget and Appropriations; and, and to engage all relevant stakeholders with the aim of considering propose policies and legislative interventions that enhances growth of the economy and improve ways of doing business in the country.

During the meeting, the Caucus proposed for creation of a **Select Committee on Economic Treaties Ratification** to deal with treaties that have economic implications for the country and related matters.

The laws Governing Treaty Making in Kenya are the Constitution of Kenya, 2010; Treaty Making and Ratification Act, 2012; The Statutory Instruments Act, 2013; and the Vienna Convention on the Law of Treaties. The Treaty Making and Ratification Processes include -

1. Negotiations - Executive sets ups the negotiations team and proceeds to commence negotiations with the other State Party(ies)
2. Execution - Upon agreement by the State Parties involved, the Treaty is signed. This is done by the Executive
3. Ratification – This is process of making the Treaty have a binding effect. It is where Parliament comes in after the Cabinet Secretary submits the Treaty and an Explanatory Memorandum to Parliament for consideration and approval.

The Treaty Making and Ratification Act is the applicable Act that gives effect to the provisions of Article 2(6) of the Constitution. Section 6 of the Treaty-Making and ratification Act requires the State to take into account the regulatory impact of any proposed treaty. Section 7 requires the Cabinet Secretary to submit to the Cabinet the Treaty, and memorandum outlining:

- a) The national interests which may be affected by the ratification of the Treaty;
- b) Policy and legislative considerations;
- c) Financial implications;
- d) Implications on matters relating to counties; and,
- e) The views of the public on the ratification of the Treaty; (this process is largely ignored).

When Parliament is ratifying the Treaties, the following shortcomings have been observed –

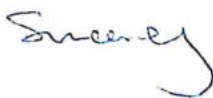
- a) The Cabinet Secretary does not from the onset conduct research to establish the national interests which may be affected by the Treaty before negotiation of the Treaty commences.

- b) Parliament is not involved in the initiation of the processes to determine relevance and need of the Treaty for Kenya. Furthermore, Parliament which is charged with promoting public participation on negotiation of Treaties can only do so after the Treaty has been submitted to Parliament; a process that limits stakeholder participation until major decisions have been made already.
- c) Parliament is not involved in the negotiation processes. While this may seem like interfering with the role of the Executive, best practices from across many jurisdictions we have studied have shown that it is important at the very least to agree on the agenda of what should go into the Treaty and what should not.
- d) Parliament only comes in after a Treaty has been signed by the Cabinet Secretary or when it is about to be signed.
- e) Parliament debates the Treaty but has no powers to amend it or propose amendments.

In addressing the above stated shortcomings, the Caucus proposed for a creation of the said Select Committee to address and oversight the executive in carrying out the following issues, *inter alia*, policy coherence for development; the sovereign right to regulate in the public interest; inclusivity (including broad public consultation); transparency; sustainable development and sustainability; economic impact assessment; social and environmental impact assessment; respect for regional integration goals and strategies; and, respect for the Kenyan Constitution and all international and regional agreements and instruments (including soft law) that Kenya has either ratified or signaled its support; and other related matters.

The purpose of this letter is therefore to consider creation of a Select Committee on Economic Treaties Ratification to deal with economic Treaties and related and all matters during the review of the Standing orders of the National Assembly during the 13th Parliament.

Yours




THE HON. JUDE NJOMO, MP
MEMBER FOR KIAMBU TOWN CONSTITUENCY AND CHAIRPERSON,
PARLIAMENTARY CAUCUS ON BUSINESS AND ECONOMY

Copy to-

Mr. Michael R. Sialai, CBS
 Clerk of the National Assembly
 Parliament Buildings, Parliament Road
Nairobi, Kenya.

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**The Member for Kibwezi West,
The Hon. Patrick Musimba, MP**



REPUBLIC OF KENYA
PARLIAMENT

Hon. Dr. Patrick Mweu Musimba, MP.
Kibwezi West Constituency

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20 April 2022

② Mr. Maira klang'ika
For review and deliberation
by the Taskforce and the
PMAC members
9/5/2022

**IN THE MATTER OF THE REVIEW OF THE NATIONAL ASSEMBLY STANDING
ORDERS**

*In accordance with Article 118(1)(b) and Standing Order 264 of the National Assembly
Standing Orders*

MEMORANDUM OF PROPOSALS

Whereas the Procedure and House Rules Committee of the National Assembly has commenced the process of review of the National Assembly Standing Orders in preparation for the Thirteenth Parliament. Therefore, pursuant to the provisions of Article 118(1)(b) of the Constitution the Clerk of the National Assembly issued an invitation to submit views on possible areas of amendment(s) to the Standing Orders currently in use.

① DL & P
Pse deal.
CNA
28/4

1st Proposal

The invitation asserts that the possible amendments may include provisions relating to the existing committee system focusing on areas such as size, **composition**, operations, effectiveness, and efficiency.

The Constitution of Kenya, 2010 in Article 124(1) states:

"Each House of Parliament may establish committees and shall make Standing orders for the orderly conduct of its proceedings, including the proceedings of its committees."

Similarly, in Article 99(1)(c)(i), it states that a person is eligible for election as a Member of Parliament if the person:

"Is nominated by a political party or is an independent candidate who is supported in the case of election to the National Assembly, by at least one thousand registered voters in the constituency"

Article 99 gives all those intending to be elected as Member of Parliament (MP) the same threshold to meet regardless of your political inclination whether to a party or as an

28 APR 2022

the house, then they ought to be roped in a bit more regarding the orderly conduct of parliamentary duties and the committees. Given that the role of an MP is centrally around oversight and representation of their constituents, it is trite that independent MPs need to be considered as oversight centrally happens in committees and independent MPs too have constituents that they owe this duty. This, being fully appreciative of the nature of parliament and the role political parties play in the advancement of parliamentary business however, the number of independent members is showing an upward trajectory in terms of growth.

In light of the above argument, these are the proposals we seek to introduce to the National Assembly Standing Orders on this issue:

- In line with Standing Order 259A, **actualize and cement the place of an Independent Members Caucus** with the objective of advancing the agenda of independent MPs and full recognition of a leader/chairperson of this caucus.
- Regarding the **composition of the Committee on Selection**, amend Standing Order 172 from stating that it takes into consideration the interests of independent members and to actually doing so by including this proposed leader/chairperson of the Independent Members Caucus to be a part of the Committee of Selection. This way, the interests of the independent MPs is actually seen to be safeguarded in the selection of members to serve in Select Committees of parliament.
- Harmonization of Standing Order 174 on the **Criteria for Nomination** to reflect the position after these proposals.

The net effect that these proposals shall bring is to place the independent MPs at a similar level to their counterparts who were elected on party tickets. There are those key committees that indeed ought to be saved for either the Majority or Minority Parties to ensure there's smooth and accountable running of government however, independent MPs too can play a clearer role in their oversight duties which their constituents can be able to see and feel as they are accountable to their constituents. An independent member still ought to be seen as contributing to the role of the National Assembly as espoused in Article 95 of the Constitution despite that fact.

2nd Proposal

The standing orders are also open to amendment on any issue relating to practice or procedure of the National Assembly that may require amendment. Another area which has great potential for review is the overall legislative process and in particular the establishment of a mini-chamber in accordance with the rules and procedures as designated and deemed fit

by parliament. There shall be a designated Speaker, Clerk and Sergeant at Arms in this chamber to ensure that it operates just as the main chamber of the National Assembly.

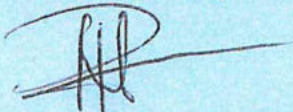
In a bid to enhance efficiency, smooth processing and fast tracking the backlog of bills, this mini chamber shall be established to solely deal with the second reading of bills that are on the floor of the house. After the relevant committee has carried out the public participation following the first reading of a bill, once its report has been tabled and it now proceeds to the second reading. At this stage, this bill is then read in designated mini-chamber. The purpose of this mini-chamber therefore shall be to:

- Enable all bills that are at this stage of second reading be dealt with expeditiously as it would be designated only for bills that are at this stage.
- Enable all MPs who have a vested interest or would like to contribute to the debate an opportunity with ample time to dispense off all their views on the bill.

This proposal mirrors a practice in the House of Commons whereby they have a committees known as the Second Reading Committees. In the UK parliament, bills which are non-controversial and those that can be passed at ease are debated in these committees. If a Bill passes through such a committee, its second reading and committal motions must still be agreed by the House in the Chamber, but will be decided there without debate. This is a practice that ensures efficiency in the legislative process.

In our case, the proposal is not to do away with debate at second reading but to carry it all out in another chamber in which provides an avenue for each member to contribute on a bill in which is listed for debate/second reading during that period. Thereafter, once the bill is taken back to the committee, it can proceed back then to the main chamber for committee of the whole in the main chamber. If this chamber runs concurrently with the main chamber, then business of the house can be carried out in a quicker manner.

Yours Faithfully,



HON. DR. PATRICK MUSIMBA, MP.

KIBWEZI WEST CONSTITUENCY

**The Member for Dagoretti South,
The Hon. John Kiarie, MP**



John Kiarie, M.P.
Dagoretti South Constituency

(3) Mr. Maina M. T. M. for OAHGHA y he Taskforce committee. 2/11/22

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The Hon. J. B.N. Muturi, EGH, MP,
Speaker of the National Assembly,
Parliament Buildings,
P.O. Box 41842-00100,
NAIROBI.

Noted. CNA to place this before the Procedure and House Rules Committee to consider.

Dear

RE: PROPOSED AMENDMENTS TO THE NATIONAL ASSEMBLY STANDING ORDERS

Hon. Speaker, sometime last year, you invited Members to submit views on term review of the Standing Order before this Parliament comes to an end. To this end, I wish that the following is taken into account in the process of the revision-

a) Appointment of the Leader of Majority Party and the Leader of Minority Party

1. Standing Orders 19 and 20 do not provide for the appointment of a Leader of Majority or Minority Parties. The Standing Orders only provide that the Leaders are elected by the members of Majority or Minority Parties as the case may be.
2. In this regard, there is need to provide for the mode of appointing the Leaders once they have been elected by their respective parties. I therefore propose that the Committee does consider amending Standing Orders 19 and 20 to provide that once a Majority or Minority Party elects a Leader, such a decision/ resolution shall be formally communicated to the Speaker by the Chairperson or the Secretary-General of the Majority or Minority party as the case may be, for information to the House.

b) Strengthening of the Leadership Offices

3. Article 108 of the Constitution establishes the offices of the Leader of Majority and Leader of Minority Parties. However, there exist no framework to facilitate the discharge of their respective duties as Leaders of Majority and Minority Parties in particular advancing the legislative business and agenda of the Parties.
4. Owing to their respective duties, the Leaders are required to engage the members of their respective parties through consultative meetings so as inform them on party positions on the business to be considered in the House. This ensures that Members are well informed on the decisions to

(2) DLEP to consider for the PSHK ant CNA 11/5/22

10 MAY 2022

John KJ Kiarie John KJ Kiarie @KiarieJohn @Kj4Dago





John Kiarie, M.P.
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take on any business before the House.

5. To this end, there is need to strengthen the leadership offices by creating a forum by which the Leader of Majority and Leader of Minority Parties can discharge their respective duties effectively.
6. I therefore propose that the Standing Orders be amended to provide for **facilitation** of the Leader of Majority and Leader of Minority Parties to hold meetings with their respective members for purposes of discussing or explaining party positions on legislative business before the House.
7. This should take the form of placing a request for holding consultative meetings with the Members of the respective Parties by either Leader, to the Speaker, for approval.
8. The Clerk should then be required to advise the Speaker as to whether the request should be approved based on the proposed meeting and the intended agenda to be discussed among other things.
9. Once, approved, the Clerk should be required to make the necessary arrangements to facilitate such meetings. The meetings should be considered similar to committee meetings and the Members should be entitled to the privileges and benefits that ordinarily accrue in committee meetings.
10. The Standing Orders should also provide that the Clerk may advise that a request to hold such meetings be not approved, by the Speaker, if satisfied that among other things, which the proposed meeting does not relate to the business of the House.

c) Removal of the Leader of Majority Party and the Leader of Minority Party

11. Honourable Speaker, Standing Order 19 and 20 provides for the procedure for removal of the Leader of Majority Party and the Leader of Minority Party respectively. In particular, Standing Order 19(3), provides that a Leader of Majority may be removed from office by a majority of all the members of the largest party or coalition of parties in the National Assembly while Standing Order 20(3) provides that a Leader of Minority Party may be removed from office by a majority of all the members of the



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minority party or coalition of parties in the National Assembly.

12. To this end, I note that Standing Order 19 and 20 does not provide for the *due process in the removal process*. Whereas arguments can be made that the removal of Party leaders is a matter within the preserve of Political Parties, due process and fair administrative action are processes engraved in the Constitution which cannot be wished away even on matters political parties.

13. Article 47 of the Constitution as read with the Fair Administrative Action Act, 2015 provides that every person has the right to administrative action that is lawful and procedurally fair. Additionally, Article 236(b) of the Constitution provides that a public officer shall not be removed from office or otherwise subjected to any disciplinary action without due process of law

14. There is hence need to amend Standing Orders 19 and 20 to accord with the dictates of Articles 47 and 236 of the Constitution and the Fair Administrative Action Act, 2015.

15. It is also to be noted that the positions of the Leader of Majority Party and the Leader of the Minority in the National Assembly are established by Article 108 of the Constitution and hence require to be protected and not subject to removal procedures that are unlawful and un-procedural.

16. You will recall Hon. Speaker, that the position of the Speaker although also established in the Constitution, was before the Standing Orders were amended to entrench Standing Orders 12A and 12B subject to removal process that gave no regard to the due process of the law as guaranteed by Articles 47 and 236 of the Constitution as read together with the Fair Administrative Action Act, 2015.

17. In this regard, Hon. Speaker, I propose that Standing Orders 19 and 20 be amended to among other things provide for:

- a) only bona fide Members of the Majority Party or Minority Party or Coalition of Parties as the case may be, should be allowed to vote to remove the Leader of Majority or Minority Parties;
- b) provision of adequate notice to the Leader being proposed to be removed;
- c) Any removal process of a Leader should be done through a vote;
- d) The Secretary-General of the Majority or Minority Party should then



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forward Minutes to the Speaker detailing the resolution of the respective party to remove a Leader including information on which Members attended the meeting for removal of the Leader and voted for the resolution; and

- e) An appellate process within the Majority or Minority Party to challenge the resolution of a Party to remove a Leader.

d) *Increase in members' participation in committees*

18. Based on my experience as a legislator, I propose that the Standing Orders be amended to reduce the Membership of Departmental Committees to fifteen members. This shall improve efficiency and increase members' participation in committee meetings.

e) *Establishment of a Public Debt Committee*

19. The public debt of the country is now at unhealthy and risky levels and may, if unchecked, lead to the economic meltdown of the country. I therefore propose that the Standing Orders be amended to create a Committee on public debt that shall exclusively only deal with examination and scrutiny of public debt unlike the current scenario where public debt does not get to be examined exhaustively save for when the Budget Committee is considering the Debt Management Strategy.

f) *Conferences with the Senate*

20. Provide for a procedure to allow regular conferences between the two Houses to resolve any disputes or agree of mode of tackling an issue or legislative business that involves both Houses, including oversight. This will save future Parliaments from the many disputes that have inundated the 11th and 12th Parliament, ending up in Courts, which is not proper practice in developed bicameralism.

g) *Members Roll*

21. Provide for the Clerk to keep a Members' roll showing the name of the Member, the date he or she takes oath or affirmation; and when he or she ceases to be a Member. During my three terms now, I have noted that it is very difficult to obtain this information, especially for previous Parliaments-unless one painstakingly goes through all Hansards records! This information is crucial as part of Parliamentary History. The Roll should be deposited at the Parliamentary Library at the end of each term of



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Parliament. The roll can go as back to the 11th Parliament, being the first one under the new Constitution.

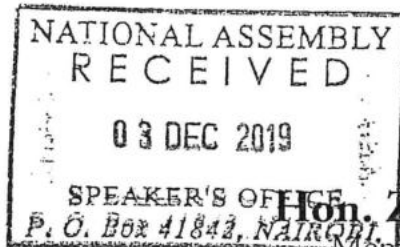
Honourable Speaker, I do hope that the Procedure and Rules Committee shall take the proposed amendments which I have highlighted herein into consideration and effect the amendments accordingly for benefits of future Parliaments. on. Speaker, I remain grateful to your esteemed leadership of the House, the high regard with which you hold us in the Leadership Positions of the House and your continued guidance, which has always made our work less difficult.

As the term of this Parliament approaches its end, I wish you good health and God's endless blessings.

Yours Sincerely,

Hon. John Kiarie, MP,
MEMBER FOR DAGORETTI SOUTH CONSTITUENCY

**The Member for Kwale County,
The Hon. Zuleikha Hassan, MP**



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next session
05/12/19

Hon. Zuleikha Juma Hassan, MP.

Member of Parliament, Kwale County
Member - Parliamentary Broadcasting & Library Committee
Member - Justice & legal Affairs Committee

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December 3, 2019

The Hon. Justin B. N. Muturi, EGH, M.P.
Speaker of the National Assembly
Parliament Buildings
NAIROBI

① Member should comply with
S.O. 263 (1) and (2).

Dear *Hon Speaker,*

Bat
SNA
4/12/19

RE: REQUEST TO AMEND THE STANDING ORDERS

Pursuant to Standing 263, I wish to submit a request to the Procedure and House Rules Committee for consideration of an amendment to Standing Order 263 to introduce a provision that allows for admission of Members with infants into the Chamber.

The objective of this amendment is to facilitate breastfeeding Mothers in the National Assembly and ensure that they continue breastfeeding their babies up to the recommended age, and at the same time effectively execute their mandate in the House.

The amendment is informed by the great importance of breastfeeding considering that breastfeeding is the first preventive health measure that can be given to a child at birth and it also enhances mother-infant relationship. It is nature's first immunization, enabling an infant to fight potential serious infections and it contains growth factors that enhance the maturation of an infant's organ systems. In addition, Kenya is a signatory to treaties that provide for the right of infants to breastfeed.

Please find a copy of the proposed amendment attached. Also enclosed are excerpts from the Standing Orders of the House of Representatives, Parliament of Australia that has similar provisions.

I would be happy to present myself before the Committee, if need be, to provide any clarification that may be required on the proposed amendment.

Yours Sincerely,
[Signature]

② Hon. speaker, this is how
in order. You may
refer it to the
procedures & House rules
committee
05/12/19

THE HON. ZULEIKHA HASSAN, M.P.
MEMBER FOR KWALE COUNTY

⑤ Mainah
Please note to
himself 12/12/19

③ **Approved.**
Bat
SNA
12/12/19

**PROPOSED AMENDMENT TO STANDING ORDER 253 TO CREATE A
PROVISION THAT ALLOWS FOR ADMISSION OF MEMBERS WITH
INFANTS INTO THE CHAMBER**

THAT, Standing Order 253 be amended by inserting the following new paragraph immediately after paragraph (2)-

“(3) Paragraph (1) does not apply to an infant being cared for by a Member.

A handwritten signature in blue ink, appearing to be 'Zuleikha Hassan', written over a horizontal line.

THE HON. ZULEIKHA HASSAN, M.P.
MEMBER FOR KWALE COUNTY

**The Member for Soy,
The Hon. Caleb Kositany, MP**



REPUBLIC OF KENYA
PARLIAMENT

Hon. Caleb Kositany, MP.

Soy Constituency

Member - Land Committee

Parliament Buildings
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Tel: +254 20 2221291
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Email: info@soyconstituency.co.ke

7th March 2019

The Hon. Justin B.N. Muturi, EGH, MP
Speaker of the National Assembly
Main Parliament Buildings
NAIROBI

Handwritten notes:
✓
HOD, HOD
P. M. M. M. M.
P. M. M. M. M.
P. M. M. M. M.
P. M. M. M. M.
P. M. M. M. M.

Dear Sir,

RE: PROPOSED AMENDMENTS TO THE STANDING ORDERS

I wish to propose the following amendments to the National Assembly Standing Orders in order to change National Assembly days and hours of sitting and to increase the time allocated to the Zero Hour.

The proposed amendments are:

- (i) National Assembly sittings should be held as follows:

Tuesday	Morning sitting	9.30 am to 1 pm
	Afternoon sitting	2:30 pm to 8 pm
Wednesday	Morning sitting	9.30 am to 1 pm
	Afternoon sitting	2:30 pm to 8 pm

- (ii) The time allocated to Zero Hour under Standing Order (43) should be increased to one hour from the usual 6:30pm -7pm to 6pm-7pm on Tuesdays and Wednesdays.

**The Member for Suba North,
The Hon. Millie Odhiambo, MP**



REPUBLIC OF KENYA
PARLIAMENT



Hon. Millie Odhiambo Mabona, MP.

Suba North
Constituency
Chairperson - PGA (K)

Member - Budget & Appropriation Committee

Parliament Buildings
309

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783

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Continental House 3rd Flr. Rm.

Mobile: +254 786 947

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The Chairperson,

15th May 2022

Procedures and Rules Committee,

Kenya National Assembly

Kenya

RE: RECOMMENDATIONS ON AMENDMENTS TO THE STANDING ORDERS

I wish to suggest the following amendments to the Standing Orders:

1. RANKING

Given that Kenya adopted a Presidential system that largely borrows from the American system, it is important that we entrench the system of 'Ranking Member'. A Ranking member should be the following:

- (a) The second-most senior member of a committee from the majority party, if not a committee chairperson. This should be designated Majority Ranking Member.

- (b) The most senior member of a committee from the minority party. This should be designated Minority Ranking Member;
 - (c) On the floor of the House, all the ranking members from Committees to be so recognized and not more than 5 other Members not holding any office as chair or ranking member in the committees, but who have qualified as a Ranking Member. The five are selected in relation to seniority attained through swearing in, akin to the Advocates' signature on the Roll.
 - (d) For one to qualify to be a Ranking Member, he or she should have served for at least two (2) terms and MUST be the most senior in the committee or in the House.
 - (e) When a party's control of a legislative chamber changes, a committee's Ranking Minority member may be considered, (though not mandatory), to become the next chairman of the committee, and vice versa.
 - (f) Ranking members should have designated sitting places in parliament and as far is practicable, given priority in contribution after the Membership of House Leadership and relevant chairs of committees; they should also be given priority in selecting the committees they wish to serve in;
 - (g) Ranking members are expected to act in a manner that reflects this status and Ranking status may be removed on recommendations of the Committee of Privileges based on misconduct by a Ranking member;
2. **ACP-EU Joint Parliamentary Assembly:** Parties should nominate and Members vote for Members of the ACP-EU Parliamentary Assembly based on parliamentary strength, while taking into account gender and regional interests. Such Members should serve the full term and report to the House just like the PAP. No one member should belong to the two parliaments;
3. **Speakers' Panel:** Parties should nominate members to the Panel and the Speaker approve the same. A member may be removed by the Speaker based on recommendations of the Privileges Committee in case of misconduct by a member of the Panel. The selection should be based on Parliamentary strength, and reflect ethnic and regional balance;

4. **Membership to the Parliamentary Privileges Committee:** The Membership should be composed of Members who have served more than one Parliamentary term;
5. **Co-Sponsorship of Bills:** There should be co-sponsorship of Bills by a Member of the National Assembly and the Senate where the Bill relates to Counties;
6. **Bill that has passed pre-publication scrutiny not to undergo the same process in the immediate succeeding Parliament.** A Bill that has passed pre-publication scrutiny should not go through the same process in the immediate succeeding parliament if introduced in substantially the same format or with same content, whether by a new member or the old Member who sponsored the Bill;
7. **Ranking of Private Members' Bills:** Other than Bills sponsored by the party, there should be a ranking of Bills sponsored by Private members, based on when they are forwarded or presented to the clerk/House by a Member. There should be a register that delineates the date of receipt of Bill. Each Bill should be given a Pre-publication number that shows when it was presented to the House;
8. **A Private member's Bill that takes more than one year in a committee should be presumed approved:** A Private member's Bill that takes more than one year in a committee should be presumed approved and the member facilitated by Parliament to undertake public participation of the Bill. This approval should equally apply to Bills under consideration by the Budget and Appropriations committee.
9. **Parliamentary Caucuses support:** There should be an open and participatory process of members joining a Caucus. As much as is practicable, there should be no two Caucuses with substantially similar mandates. Special recognition should be given to Caucuses that span more than one jurisdiction and that may have a long history. As much as is practicable, Parliament should designate an officer to support a Caucus and offer logistical support for at least four meetings in a year.
10. **Continuous learning by Members of Parliament:** Each member of Parliament should, just like all other professions, be engaged in continuous learning process. This should entail a combination of local trainings at the Parliamentary Training Centre and comparative visits to relevant jurisdictions. There should be equality and equity in access to continuous learning.

11. Members facilitated to undertake their legislative roles: Parliament should facilitate members to undertake their legislative roles including availing in each office a set of the Laws of Kenya. A member who loses any of the laws to replace at the end of the term.

I do note that the last two proposals may not snugly fit within Standing Orders but should be considered by the relevant body. Thank you.

Millie G. Akoth Odhiambo-Mabona,

MP, Suba North

ANNEXURE 7

Speaker's Communication of 9th June 2020 on
Entitlement of Slots in Select Committees and Discharge
of Members from Committees



REPUBLIC OF KENYA
TWELFTH PARLIAMENT
THE NATIONAL ASSEMBLY – (FOURTH SESSION)
COMMUNICATION FROM THE CHAIR

_____(No. 32 of 2020)____

ON

**ENTITLEMENT OF SLOTS IN SELECT COMMITTEES AND DISCHARGE
OF A MEMBER FROM SELECT COMMITTEES BY PARLIAMENTARY
PARTIES**

Hon. Members,

As you will recall, on Tuesday, 2nd June, 2020, the Member for Ugenya Constituency, the Hon. David Ochieng, MP rose on a *Point of Order* under Standing Orders 172, 173 and 176, requesting for my considered guidance on six issues. The crux of his issues was **whether a Member belonging to a party other than a Parliamentary party may be discharged from a Committee of the House by any Parliamentary party**. To this end, the Member did inform the House that he had received a letter from the Minority Party Whip notifying him of the Party's intention to discharge him from the Departmental Committee on Health pursuant to the provisions of Standing Order 176. I also wish to inform the House that the Member also wrote to the Speaker listing the six issues for which he sought my guidance.

Hon. Members, having reviewed the issues raised by the Member for Ugenya, and others canvassed by the Leader of the Majority Party, the Leader of the Minority Party and other Members who spoke on the issue, I have isolated the following five matters as the ones requiring my guidance –

- (1) whether it is the intention of the Constitution and the Standing Orders that all slots in select committees are to be assigned only to parliamentary parties;
- (2) whether it is the intention of the Constitution that the exercise of the roles of the National Assembly under Article 95 of the Constitution in Committees is exclusive to Members belonging to parliamentary parties to the exclusion of Independent Members and Members belonging to parties other than parliamentary parties;
- (3) whether the Constitution envisages that the inclusion of Independent Members and Members belonging to parties other than parliamentary parties to serve on Committees of the House ought to be the remit only of the parliamentary parties;

- (4) whether a parliamentary party may exercise the discharge powers of a party under Standing Orders 176 to remove a Member who is not a Member of the particular parliamentary party or coalition of parties from a Committee, on the basis of having granted the Member the nomination to the Committee; and,
- (5) whether there is a lacuna or misapplication of the Standing Orders with respect to nomination into, and discharge of Members from Committees, and if so, what is the appropriate remedy, if any?

Hon. Members, The issues for which the Member sought my guidance are fundamental to the functioning of the House as they relate to the mode of inclusion and exclusion of a Member from the Committees of the House. Before I proceed to address the issues for determination, permit me to remind the House that this is not the first time that the Speaker has been invited to guide on questions of membership to select committees and discharge therefrom. Certainly, this is an illustration that one cannot perfectly delink parliamentary politics from the legislature and that, the decision to discipline Members is primarily vested in the Political Parties, but it always finds its way into the Legislature. Indeed, allow me to refer to an expository by a Finnish Professor of Political Science, Dr. Kari Palonen in his write-up titled *Parliamentary Procedure as an Inventory of Disputes: A Comparison between Jeremy Bentham and Thomas Erskine May*. In that write-up, the Professor opines that and I quote, " *Parliamentary politics is inherently procedural....parliamentary politics is not just politics that takes place in Parliament, but politics conducted in a parliamentary manner, in accordance with the rules and practices of parliamentary procedure.*"

Indeed, in the Eleventh Parliament, I was invited by the Leader of the Majority Party, to guide on the application of Standing Order 176 relating to discharge of Members from Committees. This was after the then CORD Coalition discharged the Member for Lunga Lungu, the Hon. Khatib Mwashetani, MP and others from several Committees. In a Considered Ruling that I rendered to the House on 30th November, 2016, I addressed the following three Questions –

- (i) *whether, and to what extent Standing Order No. 176, as then framed, could be employed as a mechanism for enforcing party discipline for breaches outside the proceedings of the House or its Committees;*
- (ii) *whether the provisions of Standing Order No. 176, as then framed were to be applied against Members of the House by instigation of, **or order of persons other than Members of the House;** and,*
- (iii) *whether Standing Order No. 176 as then framed, adequately protected the rights of Members in the performance of their functions in the House (particularly with respect to discharge without an opportunity to be heard).*

Hon. Members, I am not about to restate the details of that Ruling but, for the benefit of the House, I hasten to underscore the fact that, arising from the guidance then, and taking into account the dictates of our Constitution on fair administrative action, I hitherto put a temporary embargo on further discharge of Members from Committees by parliamentary parties until the House amended Standing Order No. 176 to provide for a mechanism of giving the affected Member adequate notice and an opportunity to be heard by the Party, before effecting the discharge. This was later actualized by amending Standing Order 176 as reflected now in the 4th Edition of the National Assembly Standing Orders. I have intentionally chosen to underscore that particular ruling because it addressed the issue of rights of Members, which is also part of the subject of guidance this afternoon.

Hon. Members, The practice of placing political parties at the centre of running parliamentary business has a history. This prompts me to perhaps briefly enlighten the House on the history of parliamentary parties as vehicles for constituting House Committees- hence the setting of a threshold of what constitutes a parliamentary party. You will recall that in 1991, the National Assembly repealed Section 2A of the then Constitution and re-introduced multiparty democracy that saw the emergence of many political parties. As a result, political parties took centre stage in the running of the affairs of the House, including composition of the few Committees that were in place at the time. Indeed, the focus of the legislative and oversight functions of the House shifted from the plenary of the House to the Committees. At that time, the Rules of Procedure which had been amended just before the 1992 elections, only contemplated two factions in the House, that is, the *Ruling Party* and the *Official Opposition Party*. As a matter of fact, Standing Order 2 of the Seventh Parliament (1992-1997) defined "Official Opposition Party" as "the party consisting not less than thirty members..." Due to the high number of parties in the House at the time, most of which were neither in the Ruling Party nor the Official Opposition Party, there was a desire to set minimum thresholds to be met by the rest of the political parties represented in the House to qualify to sit at the "bargaining table" to claim any parliamentary opportunity or decide on parliamentary matters.

Hon. Members, Times change and so does the scope of democracy. You will agree with me that, when society transforms its ways of handling its political affairs through various epochs, it is inevitable that the rules that govern conduct of those affairs will change. Between the 7th and the current 12th Parliaments, Standing Order No. 2 has been amended severally, including at one time, amendments to increase the threshold for a party to be recognised as "official opposition", the introduction of an "opposition caucus" and the current definition of a "*parliamentary party*", which means *a party or a coalition of parties consisting of not less than five percent of the membership of the National Assembly*".

Hon. Members, May I now address the five matters that I had isolated as requiring my guidance. First, you will note that Standing Order 173 provides that the Committee on Selection shall, in consultation with parliamentary parties, nominate members who shall serve on a Select Committee. As earlier stated, Standing Order 2 defines a Parliamentary party as *a Party or a coalition of parties consisting of not less than five percent of the membership of the National Assembly which is essentially eighteen Members*. We are alive to the fact that not all parties represented in the House met the threshold for being recognized as parliamentary parties under Standing Order 2. Indeed looking at the current representation of this House vis-à-vis the definition of what constitutes a Parliamentary party, permit me to note the following eight facts, which are of significance to my guidance-

1. The total Membership of the National Assembly currently stands at three hundred and forty-eight (348) Members, noting the vacancy with respect to *Msambweni* Constituency.
2. In terms of Political Parties, there are twenty one (21) Parties with representation in the House, out of which, only three meet the threshold of parliamentary party;
3. Standing Order 2 recognizes coalitions and as such several other political parties represented in the House qualify as Parliamentary parties courtesy of pre-and post-election Coalition agreements. In this regard, out of the 21 parties represented in the House, the Jubilee Coalition¹, now comprising of Jubilee Party which has 172 Members, the Kenya African National Union (KANU) which has 10 Members, and the Party for Development and Reform (PDR) which has 4 Members, has a combined total of one hundred and eighty six (186) Members;
4. The National Super Alliance (NASA) Coalition² has a total of one hundred and twenty-six (126) Members, made up of the Orange Democratic Movement (73 Members), the Wiper Democratic Movement-Kenya (23 Members), the Amani National Congress (14 Members), Ford-Kenya (13 Members), *Chama Cha Mashinani* Party (CCM) which has 2 Members, and the *Chama Cha Uzalendo* Party (CCU) which has 1 Member;
5. There are twelve (12) other Parties with representation in the House. According to the records availed to my Office by the Registrar of Political Parties yesterday (8th June, 2020), the 12 Parties do not belong to any Coalition-

¹ Derived from a Letter by the Registrar of Political Parties to the Clerk of the National Assembly dated June 8, 2020

² Derived from a Letter by the Registrar of Political Parties to the Clerk of the National Assembly dated June 8, 2020

These are- the Economic Freedom Party (EFP), with five (5) Members in the National Assembly; the *Maendeleo Chap Chap* Party (MCCP), with four (4) Members in the National Assembly; the Kenya National Congress Party (KNC), the People's Democratic Party (PDP), and the Kenya Patriots Party (KPP), each with two (2) Members in the National Assembly; the Democratic Party of Kenya (DP), the Party of National Unity (PNU), the Frontier Alliance Party (FAP), the National Agenda Party of Kenya (NAPK), the New Democrats Party (ND), the *Muungano* Party, each with one Member in the National Assembly, and the Movement for Democracy and Growth Party (MDG) to which the Member for Ugenya belongs. In terms of total Membership, these Parties which do not fall within the definition of Parliamentary party have a total of twenty two (22) Members;

6. There are 14 elected Independent Members in the House. Since each of them also ought to be independent from the other and are not political parties, none of them would sit at the "bargaining table" reserved for parliamentary parties, even if they were to number more than eighteen (18) cumulatively;
7. Adding the number of Members belonging to parties which are neither parliamentary parties nor in coalition with any parliamentary party, together with the number of Independent Members, they total thirty six (36) Members; and,
8. Save for twenty (20) slots reserved by the Standing Orders for Parliamentary Office Holders, there are currently six hundred and twenty two (622) Committee slots in the committee system of this House, which ideally ought to have been shared amongst the Membership in a fair and transparent criteria that is in keeping with the **full** expectations of the Constitution and the provisions of Standing Order 174.

Hon. Members, With these facts in mind, the questions that now confront the Speaker are- *How should the Thirty Six (36) Members get to sit in Committees? If they are already members of committees, is Standing Order 176 available to a parliamentary party for the Party to exercise the discharge powers therein and discharge any of the Thirty Six Members from the Committees?*

Hon. Members, Article 1 of the Constitution which provides for the sovereignty of the people of Kenya spell out the manner in which the people of Kenya can exercise their sovereign power. In particular, Article 1(2) provides that the *people may exercise their sovereign power either directly or through their democratically elected representatives*. It therefore follows that each elected representative in this House whether elected through a Parliamentary party, a party other than a parliamentary or indeed an Independent Member exercises the sovereign power of the people the Member represents in the House. This is also why Part 3 of Chapter 7 of the Constitution on the *Representation of the People* which is a whole Part with various provisions on Political Parties does not distinguish between Parliamentary parties and other Parties.

It deliberately refers to all Political Parties. To interpret therefore that Members from Parties other than parliamentary parties should be disfranchised due to their few numbers in the House, is to introduce a criteria that is not contemplated in the Constitution. Moreover, Article 85 of the Constitution further recognises and permits any person to stand as an independent candidate for election if the person is not a member of a political party. It cannot thereafter be that Independent Members who are also democratically elected representatives for purposes of Article 1 of the Constitution should be excluded from sitting in Committees on the basis that they do not belong to a parliamentary party. Suffice it to say, no rule or interpretation can be used to take away, disadvantage, limit, stifle or restrict that which the Constitution has laid out in plain and clear terms as being permitted. To do so, would be an attempt to rewrite the Constitution without amending it.

Hon. Members, Article 95 of the Constitution is also clear on the role of a Member of Parliament in the National Assembly, which includes representation, legislation, oversight, budget making and vetting of public appointees, among other key roles. Undoubtedly, this is one of the architectural features and designs of a Presidential System of governance where every representation in the House counts and every Member in the House counts. If a Member of Parliament is to discharge these duties through Committees, would it hold that a Member should be denied the right to exercise these functions on the basis that he or she belongs to a party other than a Parliamentary party or is an Independent Member? If that was the case, would this also imply that the people of the Constituencies represented by such Members ought to be disenfranchised by being excluded from having a fair chance to participate in the parliamentary aspects that take place in Committees? This definitely cannot be the case and to argue so would severely negate the principle of participation of the people through their democratically elected representatives, which is enshrined in our Constitution.

In addition, **Hon. Members**, while appreciating that Kenya is a multiparty democratic State as spelt out in Article 4 of the Constitution, you will agree with me that, in so far as representation is concerned, **it is not the intention of this provision to inhibit** the participation of any Member of the House from undertaking the collective roles and functions of Parliament and the National Assembly as provided for under Articles 94 and 95 of the Constitution, **on account of the medium** under which the Member was elected or nominated into the House. Further, my reading of Article 85 does not, in any way, imply that Members elected as Independent candidates are less important legislators.

Hon. Members, it is also notable that Standing Order 174(2) provides that and I quote-

*(2) Despite paragraph (1), a Member belonging to a party other than a parliamentary party or Independent Member may be nominated to serve in a Select Committee and **the allocation of membership of Select Committees shall be as nearly as practicable proportional to the number of Members belonging to such parties and Independent Members.***

It is therefore clear that a Member belonging to a party other than a parliamentary party is **equally** entitled to serve in a Committee of the House. That provision in our Standing Orders even contemplated a situation where a substantial number of Members of the House would belong to small parties or would be Independent Members. The manner in which Standing Order 174(2) is couched also finds its footing from other comparable commonwealth jurisdictions. Indeed, according to the **Commonwealth Parliamentary Association "Recommended benchmarks for Democratic Legislatures" on Committees Organization and allow me to quote "The Legislature's assignment of Committee Members on each Committee shall include both majority and minority party Members and reflect the political composition of the legislature".**

Hon. Members, I wish to emphasize the words *reflect the political composition of the Legislature* because this is what Standing Order 174(2) tries to achieve by recognizing that a Member belonging to a party other than a parliamentary party is **equally** entitled to serve in a Committee of the House. Otherwise, Committees without such Members cannot be said to be reflective of the political composition of the Legislature. Undoubtedly, we must be alive to the fact that this House has composition not just from parliamentary parties but from other parties and Independent Members. This must be reflected in our committees. It is one which cannot be wished away because even looking at the statistics from the 11th Parliament to date, the composition of the membership to this House has seen more Members from small parties and Independent Members being elected to this House. Certainly, this may arguably continue to grow exponentially in an upward trajectory even in the future. **It is therefore obviously erroneous to advance the idea that the Constitution or the Standing Orders envisaged that Committees are a preserve of Parliamentary Parties, to the exclusion of the Independent Members and Members belonging to small parties.** This settles the first and the second issues that required my determination.

Hon. Members, In addressing the third issue, I reflected on the views advanced by Leader of the Minority Party, that Members belonging to parties other than parliamentary parties and independent Members ought to choose and align themselves to the existing parliamentary parties so as to earn consideration for a slot in committees. While, in so arguing, the Leader of the Minority Party was perfectly within his right, it is my considered view that position does not stand well with the provisions of Articles 94, 95 and 103 of the Constitution and Standing Order 174(2).

Hon. Members, Ideally, a Member elected on a political party ticket is so elected based on a resolve to ascribe to the party's philosophy, manifesto and ideals. Similarly, a Member elected as an independent candidate does so as a matter of principle, due to political circumstances or for other reasons known to him or her. Therefore, to resort to coercing such Member to affiliate with a parliamentary party so as to earn a slot in Committees, notwithstanding that they possibly were competitors in the elections, is essentially to compel them to denounce their stand in exchange for the committee slot. Indeed, the consequence of such a move may expose him or her to the sanctions contemplated under Article 103(1)(e) of the Constitution (*Vacation of office of Member of Parliament*) as read with section 14 of the Political Parties Act, 2012, which read as follows-

"103(1). *The office of a member of parliament becomes vacant-*

(e) *If, having been elected to parliament-*

- (i) *as a member of a political party, the member resigns from that party or is deemed to have resigned from the party as determined in accordance with the legislation contemplated in clause(2); or,*
- (ii) *as an independent candidate, the member joins a political party."*

Hon. Members, To advance the view of the Minority Leader that an Independent Member or one from a small Party ought to be aligned to a parliamentary party to earn a slot in a Committee, would amount to assuming that, the three parliamentary parties also have the authority to **shut the door of this Chamber** from any member who is Independent or who is elected on a small Party, and admit such Member into the plenary **ONLY** if he or she undertook to align with the Parliamentary Parties! Ideally, as is the practice in the Chamber and indeed in the committee system of many other multiparty legislatures, the issue of lobbying and "enticing" the smaller parties comes in **after** they are already in the Committees membership. It is therefore inconceivable that the Constitution or the Standing Orders contemplated that an Independent Member or a Member belonging to a party other than a parliamentary party would get to sit in a committee only if they affiliated with a parliamentary party. Since Standing Order 174(2) is clear, I must assert, respectfully so, that I find the opinion that "*Members belonging to parties other than parliamentary parties and independent Members ought to choose and align themselves to the existing parliamentary parties so as to earn consideration for a slot in committees*" as being a perfect example of misapplication of the Constitution and the Standing Orders.

Hon. Members, Let me now turn to the fourth issue of *whether a parliamentary party may exercise the discharge powers of a Party under Standing Order 176 to remove a Member who is not a Member of the particular parliamentary party (or a Coalition) from a Committee, on the basis of having granted the Member the nomination to the Committee.*

To address that question, I will refer to the provisions of Standing Order 176, which provides for the discharge of Members from Committees. In particular, Standing Order 176(1) provides that-

- (1) *A parliamentary party may discharge a Member from a Select Committee after according the Member an opportunity to be heard.*

Hon. Members, a fair reading of the said Standing Order clearly indicates that the responsibility of discharging Members from Committees is placed on parliamentary parties. From the onset, the question of who "donated" the position occupied by the Members belonging to Parties other than parliamentary parties or Independent Members is no longer tenable. This is because, as I have observed from the three preceding questions I have addressed, and the plain reading of Standing Order 174(2), all Members should have a fair chance to sit in **at least one Committee**, without appearing to entreat or beg any other party for a reasonable opportunity. If that is not what actually transpired in the composition of the current Committees, it is said that, "two wrongs do not make a right". As leaders, we ought to correct the wrongs, whenever we encounter them. To this end, it is apparent that **no parliamentary party may discharge a Member unless the Member belongs to or formally affiliates with the Parliamentary party, by way of a coalition agreement as contemplated under the Political Parties Act.** This is because the exercise of the discharge powers under Standing Order 176 ought to be exercised by a parliamentary party **only** on Members belonging to that Party.

Hon. Members, In the case for the Member for Ugenya, it is a fact that he was elected on the platform of the Movement for Democracy and Growth (MDG) Party and he is the single Member elected in this House on that Party's ticket. To the best of my knowledge and from the information availed to my office by the Registrar of Political Parties yesterday, the MDG Party is not part of the parties forming the Majority Party or the Minority Coalition in the House. **It therefore follows that neither the Minority Party nor the Majority Party may exercise the discharge powers under Standing Order 176 on the Member for Ugenya at the moment.**

On the secondary question of whether the Committee on Selection acted equitably in allocating the Member for Ugenya one Committee, Standing Order 174 is clear on the criteria used by the Committee on Selection to nominate Members to serve in a Select Committee. This includes ensuring that the allocation of membership of Select Committees is as nearly as practicable proportional to the number of Members belonging to Parties other than Parliamentary parties and Independent Members. It is however notable that Standing Order 174(3) further provides as follows—

"Except as the House may otherwise resolve, on the recommendation of the Committee on Selection for reasons to be stated—

- (a) no Member shall be appointed to serve in more than two Departmental Committees;"*

From a reading of Standing Order 174(3), it is therefore within the prerogative of the Committee on Selection to nominate Members to serve in at least one or more Committees. It therefore follows that the jurisdiction to determine whether a Member should serve in one or two Committees lies with the Committee on Selection and this House when approving the motions for appointment of Members to respective Committees.

Hon. Members, let me now address the final question of *whether there is lacuna or misapplication of the Standing Orders with respect to nomination to, or discharge of Members from Committees and what would be an appropriate remedy.*

As I have observed, it is **incorrect to assume that the Constitution or the Standing Orders envisaged that Committees being a preserve of parliamentary parties, to the exclusion of the Independent Members and Members belonging to small parties.** In this regard, the primary formula of allocation of Members to serve in Committees ought to have embraced a criteria where a proportion of total membership to Committees would be allocated to parliamentary parties based on their relative majorities but at the same time also reserve a proportion of seats for Independent Members and Members belonging to Parties that are not parliamentary parties. To guarantee fairness, the criteria ought to look at the totality of slots available, isolate the slots that are to be shared by parliamentary parties and share out to the existing parliamentary parties in accordance with their numerical strength in the House as required under Standing Order 174(1)(a). When it comes to Members belonging to parties other than parliamentary parties and the independents, the criteria ought to ensure that such Members serve on at least one Committee, as required under Standing Order 174(2). This will correct the misapplication of the Standing Orders and the erroneous impression that such Members must first affiliate with Parliamentary parties to serve in Committees.

Hon. Members, Having said that, I am inclined to observe that part of the terms in Standing Orders 173, 174 and 176 as currently couched do not guarantee fairness to independent Members and Members belonging to political parties other than parliamentary parties. For instance, Standing Order 173(1) (*Nomination of Members of select committees*) provides as follows –

- (1) Unless otherwise provided by any written law or these Standing Orders, the Committee on Selection shall, **in consultation with parliamentary parties**, nominate Members who shall serve on a select committee.*

As presently couched, this provision does not contemplate consultations with the independents or political parties that do not meet the threshold set out in Standing Order 2 for recognition as parliamentary parties. For political parties, they may have to designate a spokesperson to advance their interests even when they do not qualify to be a parliamentary party. The case is worse for the independents because, as a matter of fact, each independent Member is independent of the other and no matter how many they could be in the House, they cannot be construed as a political formation. While parliamentary parties ordinarily consult with the Committee on Selection through their party Leaders and Whips, there is no mechanism in the Standing Orders for consultations with smaller political parties and independents when it comes to sharing of slots in select committees.

Hon. Members, allow me however to note that even with the shortcomings that are occasioned by the manner in which Standing Order 174(2) is couched, the Standing Order envisaged a ratio in which the slots to committee membership would be shared taking into account the Independent Members and Members belonging to Parties other than other parliamentary parties. It is therefore obvious that at the commencement of this Parliament there was a misapplication of the Standing Order in the criteria that was used to share committee slots. In the end, the criteria used did not ensure that the Independent Members and Members belonging to Parties other than other parliamentary parties got their rightful share in terms of Committee membership.

Hon. Members, Taking into consideration the six hundred and twenty two (622) slots available for sharing out, a fair criteria that is in keeping with the provisions of Standing Order 174(2) ought to have arrived at a committees' distribution outcome which is approximately close to the following quotas³-

- (a) The **Jubilee Coalition** with a combined total of One Hundred and Eighty Six (186) Members in the House, is entitled to a total of **Three Hundred and Thirty (330)** slots spread out in committees, to be shared between the Members of the three Parties that form the Jubilee Coalition, that is; JP, KANU and PDR;
- (b) The **National Super Alliance (NASA) Coalition**, comprising of the Orange Democratic Movement, The Wiper Democratic Movement–Kenya, the Amani National Congress, FORD-Kenya, *Chama Cha Mashinani* Party (CCM), and the *Chama Cha Uzalendo* Party (CCU), is entitled to a total of **Two Hundred and Twenty Six (226)** slots in committees to be shared out amongst the One Hundred and Twenty Six (126) Members who make up the Coalition.
- (c) The **Economic Freedom Party**, is entitled to a total of **eight (8)** slots in committees to share out among its 5 members;

³ The Statistics are to the closest approximate computation and assume that Msabweni constituency seat, which is currently vacant will be occupied by a Member of the Orange Democratic Movement (ODM)

- (d) The **Maendeleo Chap Chap Party** is entitled to **seven (7) slots** in committees, to share amongst it four (4) Members;
- (e) The **People's Democratic Party, Kenya Patriots Party and Kenya National Congress**, with two (2) Members each, are entitled to **four (4) slots**, each Party, in committees;
- (f) The **Frontier Alliance Party, the Party of National Unity, the Democratic Party of Kenya, the National Agenda Party of Kenya, Muungano Party⁴, New Democrats** and the **Movement for Democracy and Growth**, each with a one (1) Member in the House, are entitled to **two (2) slots** per Party, in our Committees; and,
- (g) The fourteen (14) Independent Members are cumulatively entitled to share out **Twenty Five (25) slots** in committees.

From the numbers enumerated, it can be seen that there are thirty six (36) Members who are either Independent Members or from small parties that do not meet the threshold of parliamentary parties pursuant to the Standing Orders and are not in any Coalition. These Members are thus cumulatively entitled to approximately a total of **Sixty Six (66) slots** out of the 622 slots available in committees.

Hon. Members, With regard to discharge of Members from select committees, it is clear that Standing Order 176(1) does not contain mechanisms for discharging Members belonging to political parties other than a parliamentary party and the Independents. For avoidance of doubt, Standing Order 176(1) provides that-

- (1) *A parliamentary party may discharge a Member from a Select Committee after according the Member an opportunity to be heard.*

As Members may be aware, this provision was added to the Standing Orders at the tail end of the last Parliament. By not providing for de-whipping of Members from political parties other than a parliamentary party and the Independents, the Standing Order leaves room for unwarranted speculations that parliamentary parties may stretch their tentacles to also discharge such Members, even as such Members are also subject to the disciplinary sanction of their respective primary parties, however small they may be. Needless to say, the smaller parties which are not considered as parliamentary parties have no effective avenue for discharging members.

⁴ According to a Letter from the Registrar of Political Parties to the Clerk of the National Assembly dated June 8, 2020, the Coalition Agreement between WDM-K and Muungano Party was terminated vide their respective letters of June 7th and 20th, 2019.

Nevertheless, the Committee on Selection ought to be at liberty to propose to the House, reallocation of committee memberships to ensure balance as envisaged under Standing Order 174(2).

Hon. Members, Allow me to contrast the foregoing comparative cases from the sister Parliament of Uganda, which has a total of Eighty Three (83) Independent Members of Parliament. From a reading of Standing Order 157 of the National Assembly of the Republic of Uganda, entitlement of slots in committees in the Parliament of Uganda with respect to Members elected through political parties is pegged on Parties represented in Parliament without any thresholds being set. For independent Members, the Standing Orders have assigned the responsibility to the Speaker in mandatory terms. A practice has also emerged where Independent Members elect one of them as the **"Dean of Independents"** who liaises with the Speaker in allocating seats to the Independent Members. In terms of discharge from select committees, the Standing Orders of Parliament of Uganda vest the power to discharge party sponsored members in the sponsoring parties, provided that the Member so discharged is relocated to another Committee. It is noteworthy that, just like those of the National Assembly of Kenya, the Standing Orders of Parliament of Uganda, are silent on the discharge procedure for Independent Members. It is also good to appreciate that there are lessons that this House may draw from the Parliament of Uganda particularly on the matter of ensuring fairness and equity in access to slots in select committees for all Members irrespective of them belonging to a parliamentary party, political party other than a parliamentary party or independently elected.

Hon. Members, in the House of Commons of the United Kingdom⁵, the Members of a select Committee, other than a Chair elected by the House, are appointed by way of a Motion in the House. Motions in respect of most select Committees are made on behalf of the Committee of Selection. The House of Commons has endorsed a principle that, in proposing nominations for select committee Membership for the Committee of Selection or the Government to put to the House, parties should elect members of select committees in a secret ballot or whichever other transparent and democratic method they choose. On the other hand, In the House of Commons of Canada⁶, it is the House, and the House alone, that appoints the Members (and associate Members) to its Committees, as well as the Members who will represent it on Joint Committees. The Speaker has ruled that this is a fundamental right of the House. The Committees themselves have no powers at all in this regard. In the vast majority of cases, the House sets the number, or the maximum number, of members of each Committee.

⁵ *Erskine May, 24th Edition, page 801.*

⁶ *The House of Commons Procedure and Practice, 3rd Edition, 2017, page 1027.*

The number of members to be selected from each of the recognized parties is subject to negotiation among the parties at the beginning of each Parliament. The resulting agreement is not set down in the Standing Orders, but reflected in the composition of each Committee, which generally reflects the proportions of the various parties represented in the House.

Hon. Members, In the National Assembly of Zambia, the mechanism for establishing select committees is anchored in Standing Order 135. In a radical departure from the practice here and across other jurisdictions, selection of Members to select committees is domiciled in the Office of the Speaker. Standing Order 135 provides that, and I quote

—
(1) Unless otherwise directed by the Standing Orders Committee, the Speaker shall determine the number of, and nominate, the members to serve on a select committee.

Hon. Members, Let me be clear that I have no intention of moving this House to domicile nomination of Members to serve on select committees to the Speakership. What I am deducing from the said provision and that of Parliament of Uganda is that the mechanism for selecting Members to serve on select committees is designed in a manner to afford every Member a fair opportunity to discharge their constitutional roles through committees, just as they do in the plenary. I can only urge the House to embrace that spirit and propose a mechanism to actualize it.

Hon. Members, turning to the question of appropriate remedy, there is need to review part of our Standing Orders relating to criteria for nomination to select committees and discharge of Members from committees. **The review should not weaken the grip that parliamentary parties have on allocation of slots in committees to their Members and invocation of the discharge rule as a tool for enforcing party discipline,** but should stretch the democratic space in the House with a view to incorporating fairness and inculcating the expectations of Articles 1, 94, 95, 97 and 103 of our Constitution in the criteria for sharing of Committee slots. This will guarantee the right of every Member of this House to execute their constitutional roles, particularly budget making, scrutiny of legislation and vetting of appointments that are carried out in Committees, without any curtailment in the Standing Orders.

In conclusion, **Hon. Members,** you will now agree with me that, it will be procedurally improper and a sanction of recurrence of a procedural error, if I were to permit the discharge from committees, of Members belonging to small political parties and the Independents by parliamentary parties which have not entered into formal coalition agreements with the small parties. To this end, it is my considered guidance-

- (1) **THAT**, the exercise of the discharge powers of a party under Standing Orders 176 is restricted to Members belonging to the particular parliamentary party and those from other smaller parties who have entered into formal coalition agreements;
- (2) **THAT, NO** parliamentary party is to exercise the discharge powers of a party under Standing Orders 176 to remove a Member who is not a Member of the particular parliamentary party from any Committee of the House, even on the basis of having granted the Member the nomination to the particular Committee as that conception is based on misapplication of the Standing Orders;
- (3) **THAT**, since the Member for Ugenya Constituency, the Hon. David Ochieng, MP neither belongs to any parliamentary party nor has his Movement for Democracy and Growth Party entered into a coalition with any of the parliamentary parties, the notice given by the Minority Party Whip to discharge the Member from the Departmental Committee on Health was erroneous *ab initio* and therefore invalid;
- (4) **THAT**, in view of the continued misapplication of Standing Order 174 by assuming that all committees' slots are reserved for the exclusive distribution to the membership of parliamentary parties thereby alienating the Independent Members and Members belonging to parties other than parliamentary parties, soonest possible, the Committee on Selection in consultation with the Procedure and House Rules Committee does devise a criteria for nomination of Members to Committees that guarantees that Members who belong to Parties other than Parliamentary parties and Independent Members also get their rightful share of the six hundred and twenty two (622) slots available for sharing in Committees. This may include proposals for registration of desired committee(s) and the use of lots as a means of determining how to place such Members in their entitled slots few as they may be;
- (5) **THAT**, the Procedure and House Rules Committee does initiate the process of proposing amendments to the Standing Orders so as to expressly provide for the said criteria. The Committee may also propose the manner of ordinary re-allocations of the slots in Committees, corporately reserved for Independent Members and parties other than parliamentary parties, **amongst** the Independent Members and those belonging to the small parties that do not constitutes parliamentary parties; and,

- (6) **THAT**, in the meantime, I will not admit any requests to discharge any Member who is an Independent Member or belongs to a party other than a parliamentary party from a Committee until such time as the criteria has been developed or the Standing Orders accordingly amended to entrench fairness and justice.

The House is thus accordingly guided.



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

Tuesday, 9th June, 2020

