

FACTSHEET

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PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

Committee of The Whole House

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Factsheet No. 3

COMMITTEE OF THE WHOLE House

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Purpose and Acknowledgment

This Factsheet is part of the Kenya National Assembly Factsheets Series that has been developed to enhance public understanding and awareness, and to build knowledge on the work of the Assembly, and its operations. It is intended to serve as a guide for ready reference by Members of Parliament, staff and the public. The information contained here is not exhaustive and readers are advised to refer to the original sources for further information.

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Committee of the Whole House



Introduction

A Committee of the Whole House is the entire membership of the House sitting as a committee. It is presided over by a Chairperson and conducts its business according to more flexible rules of procedure. Whenever the House resolves itself into a Committee of the Whole House, a new committee is created and stands dissolved at the conclusion of the matter referred to it.

The meeting of the Committee of the Whole House is held in the Chamber and is presided over by the Deputy Speaker (also known as the Chairperson of Committees of the Whole House) or one of the members of the Chairpersons' Panel. The Presiding Officer sits at the Clerk's Table.

The Committee of the Whole House only considers matters referred to it by the House, which include Bills at committee stage or budget estimates (Committee of Supply) . All Bills that have received a second reading are referred to a Committee of the Whole House for consideration and review.

The procedures and rules of debate are relaxed in a Committee of the Whole House as compared to their application in the House. For example, Members may speak more than once on any item.

Mandate and powers

Being a creation of the House, the mandate of the Committee of the Whole House is limited to consideration in detail of matters referred to it by the House and may include consideration of legislation or budget estimates.

In carrying out its mandate, a Committee of the whole House takes into account any instructions given to it by the House through the Speaker.

The Committee does not have the power to:

- a) adjourn a Sitting of the House;
- b) adjourn consideration of a matter to a future Sitting unless the Committee reports to the House its conclusive consideration of the matter or alternatively reports progress made in consideration of the matter committed to it. Such a decision is the preserve of the House sitting in Plenary;
- c) grant leave for the withdrawal of a Bill from the House;
- d) determine a question of privilege;
- e) extend the scope of a Bill;

Powers and duties of Chairperson of the Committee of the Whole House

The Chairperson of the Committee of the Whole House wields some of the powers similar to those conferred to the Speaker when the Speaker presides over a Sitting of the House.

The duties of the Chairperson are largely confined to the following –

(a) presiding over the Committee of the Whole House (the Chairperson therefore has no vote);

(b) in case of

- i. a Committee of the whole House on a Bill, proposing questions for consideration of clauses, schedules, title of the Bill under consideration including amendments and putting the question thereon;
- ii. a Committee of Supply, proposing questions for consideration of votes and programmes and any amendments thereto, and putting the question thereon;
- iii. a Committee of the whole House on delegated legislation and review of the Standing Orders, proposing questions for consideration of each rule or proposal as the case may be.

(c) maintain order and decorum in the Committee and deciding on questions of procedure. However, the Chairperson does not possess the authority to name a Member and order the Member to withdraw from the Chamber for the remainder of the day. That power can only be exercised by the Speaker in the House upon receiving a report from the Chairperson of Committees of the Whole House.

(d) making a formal report of the Committee of the Whole House to the plenary upon resumption of the House.

Resolving into a Committee of the Whole House

When the Order of the Day is read for the House to go into a Committee of the Whole House to consider a matter referred to it, no question is put. The Speaker leaves the Chair, and the Chairperson of the Committees of the Whole House presides. The Chairperson of the Committee sits at the Clerk's Table. By practice, the Mace is lowered from the top of the Table to indicate that the House is not in session.

Conduct of Debate in a Committee of the Whole House

Proceedings in a Committee of the Whole House are governed by the Standing Orders as far as may be applicable and by long-established practice. While Members must be recognized by the Chairperson before speaking or moving a motion, discussions are more relaxed. In this regard, Members are allowed to speak more than once to a question, although they may not share their speaking time. Further, all remarks are addressed to the Chairperson.

The same rules and practices that apply to motions in the House generally apply in a Committee of the Whole, with the primary difference being that motions in Committee of the Whole House are not seconded. Once proposed, motions may be withdrawn only by the Mover and only with the unanimous consent of the Committee. When an amendment is moved, debate must proceed on the amendment until it is disposed of.



The Clerk of The National Assembly Mr. Michael Sialai reads out clauses of The Constitution (Amendment) Bill, 2020 during The Committee of The whole House. (6th May 2021;)

Quorum

A quorum for a Committee of the Whole is fifty Members. In the event of lack of quorum in the Committee of the whole House, the Chairperson leaves the Chair and reports the fact to the Speaker, who adjourns the House forthwith until the next sitting without question put.

Relevance and disorder in a Committee of the Whole

Speeches in a Committee of the Whole are generally brief and must be strictly relevant to the item or clause under consideration. If a Member's speech is not relevant to the debate, the Chairperson is empowered to call the Member to order and, if necessary, warn that the Member risks being reported to the House. Moreover, debate must be confined to the question or contents of the matter.

The Chairperson is empowered to maintain decorum and order in a Committee of the Whole House and to decide all questions of procedure. In cases of grave disorder in a Committee of the whole House, the Chairperson immediately leaves the Chair and the Speaker immediately takes the Chair, and may suspend or adjourn the House without question put. In cases where matters of privilege are raised during Committee of the whole House, the Chairperson leaves the Chair and reports the incident to the Speaker without seeking leave of the Committee. The Speaker takes the Chair, receives the report of the Chairperson, and deals with the matter as if the incident had happened in the House. Depending on the nature of privilege that has been breached, the Speaker may prefer appropriate sanctions such as naming the Member in question or referring the matter to the Committee on Privileges.

Extension of sitting of a Committee of the Whole House

Only when the Speaker is in the Chair, a Member may move a motion, without notice, to extend the sitting beyond the ordinary hour of daily adjournment to continue consideration of a particular item of business. When the House is in a Committee of the Whole House, a Member must indicate his intention to move such a motion; the Chairperson interrupts the proceedings and, without reporting progress, rises so that the motion can be properly moved and disposed of with the Speaker in the Chair. The motion cannot be debated or amended.

Adjournment of Debate

A Committee of the Whole House has no power to adjourn its own sitting or to adjourn consideration of any matter to a future sitting. If its consideration of a matter is not concluded by the ordinary hour of daily adjournment, the Chairperson interrupts the proceedings and rises. The Speaker takes the Chair and the Committee reports progress to the House and requests leave to sit again to consider the business at the next sitting.

During consideration of a Bill or motion in a Committee of the Whole, a Member may move “That the Chairperson report progress”. A motion that “the Chairperson report progress” has the same effect as a motion for the House to adjourn debate. In other words, if this motion is adopted, no further debate can occur on the matter under consideration that day. If this motion is rejected, the Committee continues sitting and the question cannot be put again until some intermediate proceeding has taken place.

After a Committee of the Whole House has risen, reported progress and received leave to sit again at the next sitting of the House, when the Order is next called, the House goes into a Committee of the Whole House and the Committee resumes its business.

Procedure in the Committee of the Whole House

Consideration of Bills in the Committee of the Whole proceeds in the manner prescribed hereinafter. Once the Order for “Committee of the Whole House” has been called, the Chairperson takes his/her seat and the Committee is called to order. Deliberation on the Bill under consideration then proceeds in the sequence provided for in the Standing Orders, which is –

- (a) clauses as printed, excluding the clauses providing for the citation of the Bill, the commencement, if any, and the interpretation;
- (b) new clauses;
- (c) schedules;

- (d) new schedules;
- (e) interpretation;
- (f) preamble, if any;
- (g) long title; and
- (h) the clauses providing for the citation of the Bill and the commencement

Consideration of clauses/schedules without amendments

For a clause to which there are no proposed amendments, the question that “Clause ‘x’ be part of the Bill” shall be proposed and put forthwith by the Chairperson. In instances where several consecutive clauses to which no amendment has been proposed, the question framed as “Clauses ‘p’ to ‘z’ be part of the Bill” shall be proposed and put forthwith on all of them en bloc. No debate shall be entertained whatsoever on clauses without proposed amendments.

Consideration of Clauses/schedules with amendments

Consideration of clauses/schedules with amendments is done in two stages –

Stage one: Proposing the question and consideration of proposed amendments

Once the question “that clause ‘x’ be part of the Bill” has been proposed, Members desirous of proposing amendments to the said clause/schedule are accorded the opportunity to move their respective amendments in their logical sequence. Proposed amendments shall be moved after the question has been proposed but before it is put.

All proposed amendments are moved by way of a motion couched as “clause ‘x’ be amended as proposed in the Order Paper” after which debate ensues on the proposed amendment(s).

Consideration of amendments to proposed amendments

An amendment to amendment is an alteration proposing to change a question for an amendment to a clause/schedule/title already proposed by the Chairperson of the Committee. The cardinal feature of an amendment to amendment is that its content must be related to subject of the question already proposed. Secondly, notice is not required for such an amendment to be moved, and they may or may not appear in the Order Paper.

In disposing of the amendment, precedence shall be accorded to the amendment to the amendment. If a question for the latter amendment is carried, then the original amendment is deemed to have been defeated and if the converse happens, the House shall revert to consider the original amendment at the end of which a question for the amendment is put.

Consideration of further amendments

Unlike amendment to an amendment, a further amendment is a subsequent amendment to the same clause/schedule/title for which another amendment has already been proposed and disposed of. Notice for all further amendments must be given at least twenty four hours before commencement of the Sitting in which the Bill they relate to is scheduled for consideration in the Committee of the Whole House. They must also be published in the Order Paper. This condition precludes floor amendments proposed by the owner of the Bill. However, further amendments with ‘money’ implications are disallowed except with the permission of

the Speaker and with the approval of the Budget and Appropriations Committee following consultations with the Cabinet Secretary responsible for the National Treasury.

In disposing of clauses or schedules where various amendments have been proposed, precedence shall be accorded to the amendment proposing deletion.

Stage two: putting of the question for the clause

Once the Committee has expressed itself on all proposed amendments to a clause/schedule/title, the Chairperson shall put the question that “clause/schedule/title as amended be part of the Bill.”

New clauses/schedules

In principle, new clauses/schedules are expected to be considered at all stages preceding the Committee Stage. However, it is presumed that having their publication in the Order Paper constitutes First Reading. Consideration of new clauses/schedules therefore progresses through the following stages –

Stage one: second reading

First, the Clerk calls out the new clause or schedule. Thereafter, the Chairperson calls the mover to move Second Reading of the new clause or schedule. This is done by way of motion framed as “I beg to move that the new clause/schedule “3A” be read a second time” and proceeds to explain the meaning, purpose and effect of the proposed amendment. The Motion does not necessarily require to be seconded.

The Chairperson then proposes the question that “the new clause/schedule “3A” be read a second time” and allows debate to ensue (if interest is demonstrated by Members). If no debate arises, or at the end of debate (as the case may be), the Chairperson shall put the question that the “new clause/schedule “3A” be read a second time.” This marks the end of stage one.

Stage two: putting the question

This stage implies inclusion of the approved new clause/schedule in the Bill. At this stage, the Chairperson proposes the question that “the new clause/schedule “3A” be part of the Bill” then allows interested Members to debate the Motion. Thereafter, the Chairperson puts the question that “the new clause/schedule “3A” be part of the Bill.” If the question is agreed to, the new clause/schedule as approved stands part of the Bill.

Reporting Committee Stage consideration of Bills to the House

Upon conclusion of the proceedings on a Bill(s) in the Committee of the Whole House, the Member(s) in charge of the Bill(s) shall move the motion, “that the Committee do report to the House its consideration of the “xyz” Bill and its approval thereof with/without amendments (whichever is applicable).”

The Chairperson puts the question thereon and once the Committee agrees to the question, the Chairperson shall forthwith leave the Chair of the Committee and the House shall resume. Upon resumption of the House, the Bill(s) shall be reported.

Re-committal of Clauses of a Bill in the Committee of the Whole House

Meaning- Re-committal process –refers to the referral of a clause (s)/schedule (s) of a Bill that has been otherwise considered and passed by the Committee of the Whole House to the same Committee for reconsideration and subsequent approval.

Recommit at what stage?

Recommittal process commences upon resumption of the House and after the Mover of the Bill has moved the motion that **“The House do Agree with the Committee in the said Report”** and the question has been proposed by the Speaker for agreement with the Report. As a matter of good practice though not mandatory, a member desirous of recommitting a clause (s) may notify the intention of doing so to the Chairperson of the Committee.

Steps:

- **Step 1:** Mover of Re-committal: The Member who wishes to move re-committal moves - That the Motion for agreement with the Report of the Committee of the Whole House be amended by inserting the words **“subject to re-committal of Clause----”**(Requires a seconder);
- Step 2: Speaker proposes Question: That the Motion for agreement with the Report of the Committee of the Whole House be amended by inserting the words **“subject to re-committal of Clause ...”**
- Step 3: Speaker Puts the Question: That the Motion for agreement with the Report of the Committee of the Whole House be amended by inserting the words **“subject to re-committal of Clause...”**
- Step 4: If the AYES have it, Committee of the whole resumes.
- Step 5: If the NOES have it, the Speaker put the Question for Agreement with the Report of the Committee and the House proceeds to the Third Reading of the Bill.

Reporting Progress of the Committee of the Whole House



Reporting of progress of the Committee of the Whole House may be resorted to under the following two scenarios –

- (a) at the time of adjournment of the House and no procedural motion to extend sitting time has been moved and agreed, yet committee stage on a Bill has not been concluded; and
- (b) when the mover, the Chairperson of the relevant Departmental committee or any other member is desirous of postponing consideration of a Bill(s) at committee stage to a later

date for one reason or another. For example, when additional time is required to allow more Members to file proposed amendments to the Bill; or to harmonize proposed amendments through the winnowing process (consolidation of related amendments);

Any Member wishing to indulge the House to Report progress of the Committee of the Whole House shall do so by way of a Motion. The motion is generally framed as follows –

“I beg to move that the Committee do Report to the House its partial consideration of the ‘xyz’ Bill up to clause/schedule....., and its approval thereof with/without amendments (whichever is applicable), and seek leave to sit again.”

Thereupon, the Chairperson shall put the question

“that the Committee do Report to the House its partial consideration of the ‘xyz’ Bill up to clause/schedule, and its approval thereof with/without amendments (whichever is applicable), and seek leave to sit again.”

If the question is decided in the affirmative, the Chairperson shall leave the Chair and the Chairperson, or, if the Chairperson has taken the Speaker's Chair, the Member in charge of the Bill, shall report progress to the House and shall seek leave to sit again. This shall be reported as follows –

“I beg to report that the Committee of the Whole House has partially considered the xyz Bill up to clause/schedule ..., and its approval thereof with/without amendments (whichever is applicable), and seek leave to sit again.”

The Speaker then calls upon the owner of the Bill to move agreement with the said report of the Committee. This motion needs to be seconded. Subsequently, the Speaker shall propose the question for adoption of the said report and thereafter put the question forthwith or at the end of the ensuing debate.

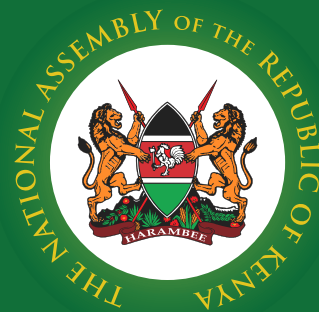
Resumption of consideration of the Bill(s) in question shall be determined by the House Business Committee in consultation with the Member in charge of the Bill.

Third Reading

After reporting progress of a Bill and consequently agreement with the report of Committee of the Whole House by the House, the Speaker calls upon the Mover of the Bill to move the motion of Third Reading which is couched as follows-

That the XYZ Bill be now read a Third Time.

He/she will require a seconder to second the motion. Subsequently the Speaker will proceed to propose the Question for the Third Reading and limited debate will ensue. At this stage, no amendment may be moved to this motion, save for the amendment proposing to leave out the word “now” and adding at the end of the question the words “upon this day” (specify the day/date). At this stage, members take a vote upon the motion “that xyz Bill be now read a Third Time.” If the result of the vote is in the affirmative, the House Bill is deemed to have passed the Bill. If the motion is defeated, the Bill is lost.



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