

FACTSHEET

30



PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

Directorate of Legal Services



Factsheet No. 30

DIRECTORATE OF LEGAL SERVICES

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The Clerk of the National Assembly
Parliament Buildings
Parliament Road
P.O. Box 41842-00100
Nairobi, Kenya

Tel: +254 20 221291, 2848000
Email: nationalassembly@parliament.go.ke
www.parliament.go.ke

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Purpose and Acknowledgement

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.

This work is a product of the concerted effort of all the Directorates and Departments of the National Assembly and the Parliamentary Joint Services. Special thanks go to the members of the *National Assembly Taskforce on Factsheets, Speaker's Rulings and Guidelines*, namely, Mr. Kipkemoi arap Kirui (Team Leader), Mr. Rana Tiampati, Mr. Kennedy Malinda, Ms. Anna Musandu, Mr. Samuel Kalama, Mr. Salem Lorot, Ms. Fiona Musili, Mr. Benson Inzofu, Ms. Laureen Wesonga, Ms. Anne Shibuko, Mr. James Maina Macharia, Mr. Morrice Shilungu, Mr. Finlay Muriuki, Ms. Rabeca Munyao and Mr. Stephen Omunzi.

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Directorate of Legal Services



Introduction

The Directorate of Legal Services- National Assembly is an office in the National Assembly of Kenya under the Parliamentary Service Commission. It is composed of legal counsel who specialize in legislative drafting and offer legal services to the National Assembly to enable it fulfil its constitutional mandate of legislation, representation and oversight.

The Directorate is headed by the Director of Legal Services - National Assembly. The basic qualification for being a legal counsel at the National Assembly is a Bachelor of Laws Degree and admission to the Roll of Advocates. The legal counsel undergo specialised training in legislative drafting and parliamentary procedures and practice.

Vision

To be the most efficient and professional provider of legal services in the public service.

Mission

Provision of efficient and quality legal services to the National Assembly to enable Parliament to effectively and efficiently fulfil its constitutional mandate of legislation, representation and oversight.

History

Prior to May, 2007, the National Assembly under the unicameral constitutional dispensation received legal services from the Office of the Attorney General. A Directorate as we have it now did not exist back then and legislative drafting services, legal advice and litigation and commercial matters were dealt with either by the Office of the Attorney General or through procurement of the services of external advocates. Accessing legal services from the office of the Attorney General was perceived as a subtle hindrance to the independence of the House. Under the doctrine of separation of powers, the three arms of governments are supposed to perform different roles and act as checks and balances to each other.

Thus, in May 2007, one legal counsel was employed with a job designation of “Principal Legal Counsel” to offer legal services to the National Assembly from within the House itself. The Directorate initially was established as a department under the Directorate of Legislative and Procedure Services.

On 1st July, 2010, the office became a fully-fledged directorate. With the promulgation of the new Constitution which provides for two Houses of Parliament, the office was restructured by the Parliamentary Service Commission in 2012 to cater for this in terms of provision of legal services.

Functions

The Directorate is responsible for:

1. Providing legislative drafting services to Members of the National Assembly and Committees of the National Assembly in line with the strategic objective of the Parliamentary Service Commission of strengthening the capacity of Parliament to make laws.
2. Providing legal advice on legislative and other legal matters to the Speaker of the National Assembly, the Leader of the Majority Party in the National Assembly and the Clerk of the National Assembly in line with the Parliamentary Service Commission strategic objective of strengthening Parliamentary offices.
3. Drafting legislative proposals for the Members and Committees of the National Assembly pursuant to Standing Order 114(1) of the National Assembly Standing Orders.
4. Formulating drafting instructions for Members and Committees of the National Assembly seeking to introduce legislative proposals and Bills pursuant to Article 109(5) of the Constitution and Standing Order 114(1) of the National Assembly Standing Orders.
5. Drafting Bills in complex or specialized fields for the Members of the National Assembly pursuant to Article 109(5) of the Constitution.
6. Drafting Bills to amend the Constitution for the Committees of the National Assembly pursuant to Article 255 of the Constitution.

7. Drafting committee stage amendments to Bills for Members of the National Assembly pursuant To Standing Order 133(5) of the National Assembly Standing Orders.
8. Attending the Chamber during Committee of the Whole House and drafting floor amendments pursuant to Standing Order 133(3) of the National Assembly Standing Orders.
9. Preparation of vellum copies of Bills for assent by the President pursuant to Article 115 of the Constitution.
10. Development of mediated version of Bills pursuant to Article 113 of the Constitution for approval by the National Assembly and the Senate.
11. Drafting subsidiary legislation on Acts that relate to the National Assembly and the Parliamentary Service Commission.
12. Submission of legislative proposals to the Parliamentary Budget office for money Bill certification pursuant to Article 114(2) of the Constitution and Standing Order 114 of the National Assembly Standing Orders.
13. Providing legal advice to the Speaker on the constitutionality and technical propriety of Bills for approval of publication pursuant to Standing Order 114(4).
14. Providing legal advice on the admissibility or technical propriety of Petitions submitted to the National Assembly pursuant to Articles 37 and 119 of the Constitution, the Petitions to Parliament (Procedure) Act and Standing Order 223 of the National Assembly Standing Orders.
15. Scrutinizing, preparing briefs and providing legal advice on statutory instruments presented to the Committee on Delegated Legislation and other Departmental Committees pursuant to Article 94(6) of the Constitution, the Statutory Instruments Act, 2013 and Standing Orders 118 and 210 of the National Assembly Standing Orders.

Providing general legal advice on matters before the Committees of the National Assembly.

Liaising with the Litigation and Compliance Directorate on matters concerning the National Assembly.

Departments

To enhance efficiency and effectiveness in the delivery of legal services to the National Assembly and Parliament, the Directorate comprises the following three Departments-

1. Department of Legislative Drafting;
2. Department of Committees and Advisory;
3. Department of Delegated Legislation and House Compliance.

The three Departments are headed at the level of Deputy Director.

Figure: Organogram of the Directorate of Legal services

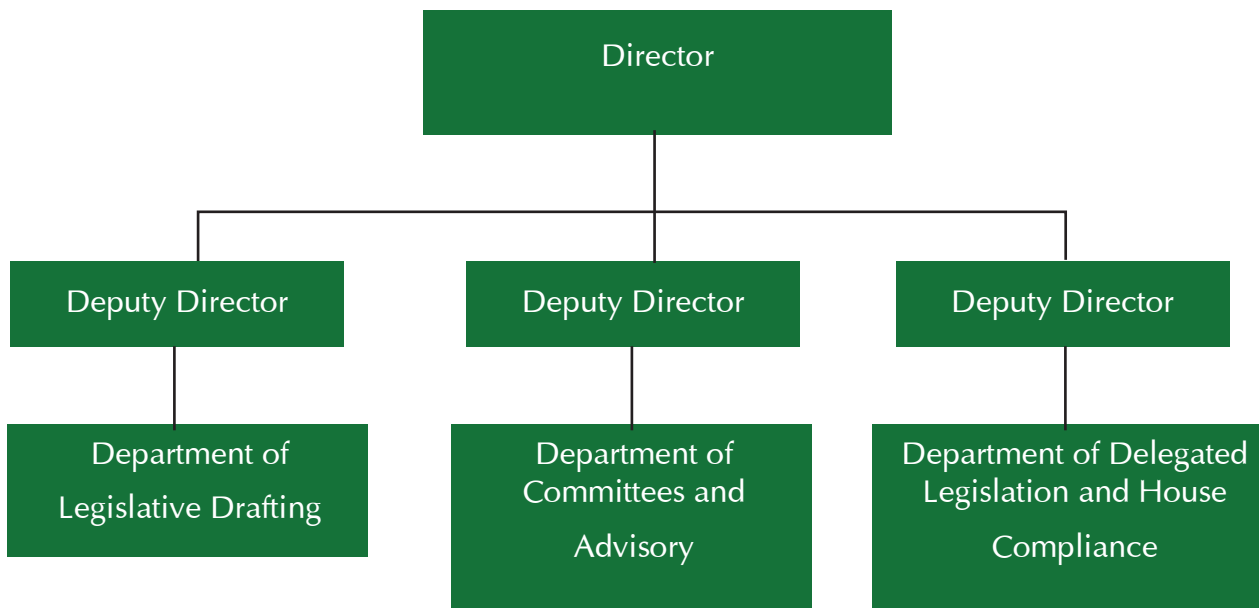


Table: Functions of Departments

Department of Legislative Drafting	Department of Committees and Advisory	Department of Delegated Legislation and House Compliance
Examination of all legislative proposals submitted to the Speaker and the Clerk under the Standing Orders of the National Assembly	Providing legal advice to the Committees of the National Assembly	Drafting Subsidiary Legislation on Acts that relate to the National Assembly and the Parliamentary Service Commission
Drafting Members' legislative proposals and other Bills submitted to the Speaker or the Clerk	Monitoring, coordinating and reporting on the technical assistance offered to Committees by the Department	Scrutinizing statutory instruments and advising the Committee on Delegated Legislation and the House pursuant to the provisions of the Statutory Instruments Act, 2013
Advising the Speaker and the Clerk of the National Assembly on policy issues and the appropriateness of submitted legislative proposals	Rendering legal opinions to the Speaker, the Clerk of the National Assembly, the National Assembly Board of Management and the various Directorates of the National Assembly on legislative and other legal issues	Formulating and drafting all legislative proposals emanating from Members of the National Assembly on matters relating to internal House Compliance

Advising the Speaker, Members of Parliament, the Clerk of the National Assembly, the Parliamentary Service Commission and National Assembly Committees on the constitutionality of proposed Bills	Advising the Clerk of the National Assembly and other senior National Assembly officers on matters relating to legal and statutory compliance	Drafting of Gazette Notices so as to inform the public on important matters before the National Assembly such as special sitting days of the House as required by the Constitution and other relevant laws
Preparation of draft chamber rulings for approval by the Speaker	Advising the Clerk of the National Assembly on matters relating to the administration of the Parliamentary Mortgage and Car Loan Schemes	Scrutinizing and advising the admissibility of all petitions committed to the National Assembly for consideration by the House in accordance with the provisions of the Constitution, Petition to Parliament (Procedure) Act, 2012 and the National Assembly Standing Orders
Undertaking Chamber Services by advising on any legal issues that may arise in the course of proceedings in the Chamber	Advising the staff of the National Assembly on matters relating to procurement and tenders	Any other functions that may be assigned by the Director
Drafting Members Floor amendments to Bills	Giving legal interpretation of Acts of Parliament and other legislation	
Preparation of Vellum Copies of Bills for assent by the President	Assisting Committees of the National Assembly to scrutinize Bills and proposed amendments to Bills	
Rendering legal interpretation of Acts of Parliament and other legislation	Legal drafting of various official documents that may be required by the National Assembly	
Engaging in legal research for fresh information and facts by consulting appropriate sources	Offering technical support to the county assemblies	
Participating in the revision of the Parliamentary Standing Orders and Parliament Subsidiary Legislation	Assisting the Department of Legislative Drafting and Chamber Services in its delivery of legal services to the National Assembly	

Offering technical support to the county assemblies	Liaising with the Directorate of Litigation and Compliance to deal with litigation issues concerning the National Assembly	
Assisting the Department of Committees and Advisory Services in its delivery of legal services to the National Assembly	Engaging in legal research for fresh information and facts by consulting appropriate sources	
Any other functions that may be assigned by the Director	Participating in the revision of the Parliamentary Standing Orders and Parliament Subsidiary Legislation	
	Any other functions that may be assigned by the Director	

Staff

The Directorate is headed by the Director of Legal Services - National Assembly.

It has a staff complement of twenty-three (23) staff comprising the Director, three Deputy Directors, fourteen (14) legal counsel, two (2) legal clerks, two (2) secretaries and one (1) office assistant.

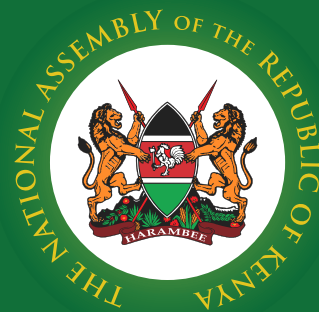
Contacts

Director, Directorate of Legal Services

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PO Box 41842 - 00100,
Nairobi, Kenya.

Email: nationalassembly@parliament.go.ke
Tel: (254-2) 222 12 91 or 284 80 00
Fax: (254-2) 224 36 94
Website: www.parliament.go.ke