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COMMITTEE	Procedure and Rules
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16/05/24

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT (THIRD SESSION)

THE SENATE

THE SECOND REPORT OF THE PROCEDURE AND RULES COMMITTEE

ON

THE REVIEW OF THE SENATE STANDING ORDERS

Clerk's Chair
The Senate
Parliament of
NAIROBI

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Approved.
[Signature]
22.05.2024
DSS

May, 2024

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PREFACE

Mr. Speaker Sir,

Establishment and Mandate of the Committee

1. Standing Order 191 of the Standing Orders establishes the Procedure and Rules Committee, with the mandate to, among others, consider and report on all matters relating to the Standing Orders including proposing amendments.

Membership of the Committee

2. The Committee comprises of the following Members-

- | | |
|---|--|
| (i) Rt. Hon. Amason Jeffah Kingi, EGH, MP | - Speaker of Senate/
Chairperson |
| (ii) Sen. Kathuri Murungi, MGH, MP | - Deputy Speaker /Vice
Chairperson |
| (iii) Sen Wakili Hilary Kiprotich Sigei, MP | - Member |
| (iv) Sen. Veronica Maina, MP | - Member |
| (v) Sen. Abdul Mohammed Haji, MP | - Member |
| (vi) Sen. Catherine Muyeka Mumma, MP | - Member |
| (vii) Sen. Sheikh Mohammed Abass, MP | - Member |
| (viii) Sen. Joe Nyutu Ngugi, MP | - Member |
| (ix) Sen. Beth Kalunda Syengo, MP | - Member |

Mr. Speaker Sir,

3. The Procedure and Rules Committee received proposals to amend the Standing Orders as outlined below-

- i) Amendments by Sen. Eddy Oketch, MP on the processing of Questions and Statements in the Senate via a letter dated 5th December, 2023 (a copy herein attached) received in the Office of the Speaker on 5th December, 2023 and transmitted to the Procedure and Rules Committee on the same day;
- ii) Amendments by Sen. Miraj Abdillahi, MP on the establishment of the Committee on Implementation via a letter dated 19th February, 2024 (a copy herein attached) received in the Office of the Speaker on 21st February 2024 and referred to Procedure and Rules Committee on 23rd February, 2024;
- iii) Sen. Fatuma Dullo, CBS, MP via a letter dated 21st February, 2024 (a copy herein attached) received in the Office of the Speaker on 21st February 2024 and approved by the Speaker on 22nd February, 2024; The Speaker's Panel (a sub-committee of the Procedure and

Rules Committee) on ascertaining Quorum before a Division or Voting; and

iv) The Senate Liaison Committee on the structure of Statements, membership of oversight Committees, introduction of the Committee on implementation and the designation of a Vice Chair to the Liaison Committee.


4. At its meetings held on Thursday, 2nd May, 2024, and Thursday, 9th May, 2024, the Procedure and Rules held a Committee to consider the proposed amendments and made proposals for consideration by the Senate, pursuant to Standing Orders 267 and 268.

Acknowledgement

5. The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate as well as the Secretariat for the support extended to it in fulfilling its mandate.

Mr. Speaker,




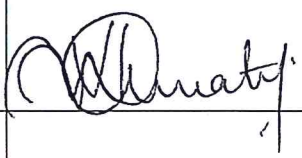





6. It is now my pleasant duty, pursuant to Standing Order 270, to present the report of the Procedure and Rules Committee on proposed amendments to the Senate Standing Orders.

Signed.......... Date.....16/05/2024.....

RT. HON. AMASON JEFFAH KINGI, EGH, MP,
SPEAKER OF THE SENATE/CHAIRPERSON, PROCEDURE AND RULES
COMMITTEE.

Consideration and Adoption of the Report by the Committee

We, the undersigned Members of the Procedure and Rules Committee, having considered this Report on the Review of the Senate Standing Orders, do hereby confirm our agreement with the content of the Report, and approve the Report for tabling before the Senate -

NO.	NAME AND DESIGNATION	SIGNATURE
1.	Rt. Hon. Amason Jeffah Kingi, EGH, MP Speaker of the Senate/ Chairperson	
2.	Sen. Kathuri Murungi, MGH, MP, Deputy Speaker of the Senate/ Vice-Chairperson	
3.	Sen. Wakili Hilary Kiprotich Sigei, MP – Member	
4.	Sen. Veronica Maina, MP – Member	
5.	Sen. Abdul Mohammed Haji, CBS, MP – Member	
6.	Sen. Catherine Muyeka Mumma, MP – Member	
7.	Sen. Sheikh Mohammed Abass, MP – Member	
8.	Sen. Joe Nyutu, MP – Member	
9.	Sen. Beth Kalunda Syengo, MP – Member	

CHAPTER ONE: BACKGROUND

Overview of Review of Senate Standing Orders

Article 124 of the Constitution mandates each House of Parliament to establish committees and make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees. The first version of the Senate Standing Orders, after the promulgation of the Constitution of Kenya, were adopted by the National Assembly on 9th January, 2013 pursuant to Article 262 and section 11 of the Sixth Schedule to the Constitution.

The Senate Standing Orders have been amended by the Senate a number of times. In the 11th Parliament, the Standing Orders were amended by the Senate on 27th February, 2014, 25th November, 2014, 16th June, 2016, and 14th December, 2017. During the 12th Parliament, they were amended on 9th August 2018, 21st July, 2020, and 16th June, 2022. During the 13th Parliament they were amended 23rd March, 2023.

Framework on Review of the Senate Standing Orders

The procedure for amending the Senate Standing Orders is provided pursuant to Standing Orders 267 and 268 which states that-

Standing Order 267:

The Procedure and Rules Committee may, at any time, propose amendments to these Standing Orders.

Standing Order 268:

(1) A Senator may, with the support of at least fifteen other Senators, request the Procedure and Rules Committee to consider an amendment to the Standing Orders.

(2) a request under paragraph (1) shall be in writing and shall-

- (a) contain the text of the proposed amendment and the justification for the proposal;*
- (b) contain the names and signatures of the Senators supporting the request; and*
- (c) be lodged with the Speaker.*

(3) The Speaker shall, if satisfied that the requirements of paragraphs (1) and (2) have been met, forward the request to the Procedure and Rules Committee.

(4) The Procedure and Rules Committee shall, within twenty-one

days of receipt of a request under paragraph (3), consider the request and table a report in the Senate containing the amendments proposed in the request and the recommendations of the Committee on each such proposal.

(5) The Senate shall consider the proposed amendments to the Standing Orders as reported from the Procedure and Rules Committee on a Motion that "The report of the Procedure and Rules Committee be approved".

(6) Standing Order 155 (Procedure on Bills reported from Committee of the Whole) shall apply, with necessary modifications, to a Motion to approve the report of the Procedure and Rules Committee on the amendments proposed to the Standing Orders.

Proposed Amendments

(i) the Procedure and Rules Committee

In its Committee Sitting held on 2nd May, 2024 the Procedure and Rules Committee proposed to amend Standing Order 238(2), to provide for resolutions on Committee reports on Petitions.

(ii) the Speaker's Panel (a sub-committee of the Procedure and Rules Committee)

At its meeting held on Tuesday, 27th February, 2024, the Speaker's Panel considered the procedural digest for the previous week. During the discussions, it was noted that it was critical that before the Senate takes a decision on any matter that Quorum is ascertained.

Members of the Panel observed that the Standing Orders imply that the Speaker is blind to quorum during a Sitting. It was, however, noted that it is prudent for the Speaker to ascertain the presence of Quorum before a vote is taken on any Business.

(iii) the Senate Liaison Committee

7. The Senate Liaison Committee submitted the following proposals to amend various sections of the Senate Standing Orders-

No	Issue/ Gap	Resolutions and Way forward
1.	Structure of Statements - The rules in the Senate Standing	Standing Order 55(1) provides that ' <i>The facts on which a request for Statement is</i>

No	Issue/ Gap	Resolutions and Way forward
	Orders on the framing of requests for Statements means that the information made available to Committees and the entities required to respond is inadequate.	<i>based may be set briefly...</i> This provision be implemented in the drafting of requests for Statements, to have a background section and then the list of questions/ information sought.
2.	Enhancing the operations and output of audit and scrutiny Committees	As far as possible, Chairpersons of Standing Committees to not serve as members of CPAC and CPI&SFC, noting that the two Committees sit daily, when other Committees also hold their meetings
		The Senate considers enhancing the membership of CPAC and CPI&SFC to enable them to establish sub-Committees and thus clear the pending backlog of audit reports. This will enable them to consider the most recent audit reports
3.	Enhancing the operations of the Liaison Committee	Standing Order 192 be amended to designate a Vice Chairperson for the Committee, to deputise the Chairperson and preside over meetings in the absence of the Chairperson
4.	Consideration of Legislative Proposals by Committees	Standing Order 131(1) be amended to import the provisions of Standing Order 130(2) on the aspects of a legislative proposal that Committees should inquire into.
		Standing Order 131(1) be amended by deleting the word 'or' appearing at the end of paragraph (a) and inserting in place thereof the word 'and'.
5.	Implementation of other Resolutions of the Senate	The Senate to consider re-introduction of an implementation committee tasked with following up with MDAs, constitutional commissions, and independent offices on the implementation of resolutions of the Senate and its Committees

Amendments Proposed by Senators

Having obtained the requisite support of at least fifteen Senators, the following proposals to amend the Senate Standing Orders were made -

a) Sen. Eddy Oketch, MP, Senator for Migori County

- (i) Via a letter dated 5th December, 2023 the Senator proposed that Standing Order 51 (C) and Standing Order 54 be amended to improve on the processing of Questions and Statements in the Senate as follows-

Proposed Amendment	Justification for the Amendment
<p><u>Standing Order 51C (5):</u></p> <p>Paragraph 5 be amended by:-</p> <p>i.) renumbering the paragraph as 5 (a); and</p> <p>ii.) inserting a new paragraph 5(b) which provides that <i>“the physical and electronic copies shall be circulated to the Senators at least twelve hours before the Cabinet Secretary appears before the Senate”</i></p>	<p>Cabinet Secretaries have been submitting their responses a few minutes before they take the podium to answer the Questions. The amendment will deal with the challenge.</p> <p>Secondly the amendment aims at ensuring that Senators get copies of the responses a day before to enable them go through and see if the Questions are well answered and if not enable them prepare well to ask supplementary Questions.</p>
<p>(7) (b) be amended by-</p> <p>Deleting the paragraph and substituting thereof the following new paragraph <i>“allow Senators to ask supplementary Questions”</i></p>	<p>The amendment will give a chance to Senators to ask more than one Question. This is because the one supplementary Question provided for in this Standing Order limits Senators from adequately interrogating the contents of the Responses given by the Cabinet Secretaries.</p>
<p><u>Standing Order 54:</u></p> <p>That Standing Order 54 be amended as follows:-</p> <p>By inserting a new paragraph 3 below paragraph 2 which provides that:-</p> <p><i>“Where no Senator seeks a Statement at the time specified by or under these Standing Orders, such Statement shall</i></p>	<p>This is to provide for a neater way of dropping Statements as is the case for Motions under Standing Order 64(3).</p>

Proposed Amendment	Justification for the Amendment
<i>not be published again in the Order Paper during the same Session except with the leave of the Speaker.”</i>	

b) by Sen. Miraj Abdillahi Abdulrahman, MP, Nominated Senator

Via a letter referenced CORR/2024, dated 19th February, 2024 (a copy herein attached) the Senator proposes the establishment of the Committee on Implementation in the Senate Standing Orders as follows-

Insert a New Standing Order 194A

- (1) There shall be a select committee to be known as the Committee on Implementation.
- (2) The Committee shall scrutinize the resolutions of the Senate (including adopted committee reports), petitions and the undertakings given by the National Executive and County Governments and examine—
 - a) whether or not such decisions and undertakings have been implemented; and where implemented, the extent to which they have been implemented within the minimum time necessary;
 - b) whether or not legislation passed by the Senate has been implemented and operationalized, where applicable within the minimum time necessary; and
 - c) whether or not any Act of a County Assembly or subsidiary legislation affecting counties has been implemented and the extent to which such implementation has taken place.
- (3) The Committee may propose to the Senate, sanctions against the relevant Cabinet Secretary, independent Commission or holder of an independent office who fail to report to the Committee, on the implementation status without justifiable reasons.
- (4) In the membership of the Committee on Implementation, parties or coalition of parties not forming Government shall have a majority of one.
- (5) The Committee constituted immediately after a general election shall serve for a period of three sessions and that constituted thereafter shall serve for the remainder of that term of Parliament.

c) by Sen. Fatuma Dullo, CBS, MP, Nominated Senator

- Via a letter dated 21st February, 2024 (a copy herein attached) the Senator proposes to reduce the threshold in terms of numbers of recognition of a parliamentary party in the Senate from 10 senators to 5% of the membership of the Senate or if this is not met, that a party recognized in the National Assembly as a Parliamentary party should also be recognized as such in the Senate.
- The proposed amendment is as follows-

THAT the Standing Order 2 be amended by deleting the definition of the term "Parliamentary party" and inserting therefor the following new definition-

"Parliamentary party" means-

- (a) a party or a coalition of parties consisting of not less than five percent of the membership of the Senate; or*
- (b) a party or coalition of parties that has not met the threshold under paragraph (a) but is determined to be a parliamentary party in the National Assembly.*

CHAPTER TWO: ANALYSIS AND OBSERVATIONS OF THE PROPOSED AMENDMENTS

This chapter details the considerations that were made by the Committee in making its determination on the proposed amendments. In its considerations, the Committee noted as follows-

i) The Procedure and Rules Committee

Proposed amendment: Amend Standing Order 238(2), to provide for resolutions on reports on Petitions.

Committee Observations:

- a) Consideration of Petitions is time bound hence resolutions on Petition reports must be made within the sixty calendar days.
- b) Noting that a mechanism to facilitate resolutions on petitions reports is being proposed, Standing Order 225 will apply in this regard whereas responses to petitioners, Standing Order 239 maybe deleted.

ii) Proposal by the Speaker's Panel (a sub-committee of the Procedure and Rules Committee)

Proposed amendment: Provide for a provision for the Speaker to ascertain the presence of Quorum before a voice vote is taken on any Business.

Scope of the rule on quorum

The scope of Quorum has evolved over the various terms of Parliament. In the 11th Parliament, Quorum with respect to taking a vote or division was provided for in Part VII of the Standing Orders adopted by the National Assembly on 9th January, 2013 that provided that-

Standing Order 34(1) *a quorum of the Senate or of a committee of the whole shall be fifteen Senators.*

Standing Order 36. *If from the number of Senators taking part in electronic voting or roll call division, it appears that the Senators do not themselves constitute quorum, the vote or division shall be invalid and the business then under consideration shall be stood over until the next sitting and the Speaker shall proceed as if his or her attention had been drawn to the absence of a quorum, but if after*

so proceeding the quorum is then present, the next business shall be entered upon.

Following amendments made on 25th November, 2014, the requirement for quorum at the commencement of a Sitting of the Senate was deleted. The deletion was founded on a tradition in Commonwealth jurisdictions where the Speaker is “blind” to the presence or absence of a quorum until and unless the matter is drawn to his or her attention. This was made notwithstanding the fact that in most commonwealth jurisdictions, quorum was provided for in the standing orders and not in the Constitution like in Kenya.

The provision was reinstated later during the periodic review of the Standing Orders at the end of the 12th Parliament.

Comparative analysis on the application of the rule on quorum

The question of quorum is almost dispensed with in the UK House of Commons which has 650 members. It is common for one member of the House to be contributing in a debate only in the presence of the Presiding Officer. Quorum is a requirement only during divisions not even on questions determined through acclamations.

Standing Order 41 (1) and (2) (HOC UK 2011) states as follows:-

1. *“If it should appear that fewer than forty Members (including the occupant of the chair and the tellers) have taken part in a division, the business under consideration shall stand over until the next sitting of the House and the next business shall be taken.*
2. *The House shall not be counted at any time.”¹*

A quorum is therefore always presumed present.

Similarly, in both Chambers of Congress of USA, quorum is also always presumed to be present, and few opportunities exist for delay by demanding a quorum call. The absence of a quorum cannot be called to the Chair’s attention except on the occasion of a vote of the House or in Committee of the Whole. The Chair, on his own authority, can recognize a Member to move “a call of the House.” Typically, such a call occurs before major action on the floor of the House or in Committee of the Whole to ensure that most Members are present, for

¹ Standing Orders of the House of Commons, The Stationery Office, 2011, p 40

example, to hear closing speeches on a major issue. The Chair's discretion in these matters is, however, absolute.²

The above two scenarios support the relaxation of the quorum requirement at the commencement of a sitting and in course of proceedings. However, it is worth noting that the UK does not have a written constitution and therefore, parliamentary processes by and large depend on or are based on traditions and practices, among other sources. Quorum of the Congress is not set out in the US Constitution.

Looking at the question of quorum before taking a vote, in other jurisdictions, it is instructive to note that even in systems that adapted the practices and procedure from the Westminster, once the quorum is embedded in the respective constitutions, the dynamics change and the discretion or "blindness" of the Speaker to the presence or otherwise of quorum is removed. Below are examples:-

(a) The Kenya National Assembly

The Quorum of the Kenya National Assembly is fifty Members, pursuant to Art. 121 of the Constitution. This is further buttressed under Standing Order 34 of National Assembly Standing Orders.

With regards to the Quorum requirement on a division, Standing Order 36 provides as follows-

If, from the number of Members taking part in an electronic voting or roll call division, it appears that the Members do not themselves constitute a quorum, the vote or division shall be invalid and the business then under consideration shall stand over until the next sitting and the Speaker shall proceed as if his or her attention had been drawn to the absence of a quorum, but if after so proceeding a quorum is then present, the next business shall be entered upon. Decorum when quorum not present.

(b) The Senate of Australia

Article 22 of the Constitution of Australia states-

"Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the Senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers". This is further buttressed in S.O 51.

² R. Eric Petersen, Parliament and Congress: A brief Comparison of the British House of Commons and the U.S. House of Representatives, May 2005, p CRS 7

Article 39 of the same constitution has similar provisions for the House of Representatives.

Notwithstanding provisions for Quorum at the commencement of a Sitting pursuant to Standing Order 51, Standing Order 52 provides for Quorum incase of decision making-

- (1) If it appears, on the report of a division of the Senate by the tellers, that a quorum is not present, the President shall adjourn the Senate till the next sitting day; and no decision of the Senate shall be considered to have been arrived at by such division.*
- (2) When the President is informed by the Chair of Committees that a quorum is not present, the bells shall be rung for 4 minutes; the President shall then count the Senate, and if no quorum is then present, shall adjourn the Senate till the next sitting day; but if a quorum is then present, the President shall leave the chair and the committee resume.*
- (3) If a Senator draws attention to the lack of a quorum, the bells shall be rung for 4 minutes; the President shall then count the Senate, and, if a quorum is not present, shall adjourn the Senate till the next sitting day.*
- (4) When the attention of the President, or of the Chair of Committees, has been called to the absence of a quorum, a senator shall not leave the chamber until the Senate has been counted by the President.*
- (5) The doors of the Senate shall be unlocked when the President is counting the Senate.*

(c) New South Wales Legislative Council

Section 22H of the Constitution Act 1902 provides that the quorum for the House is eight members in addition to the President or other member presiding.

Standing Order 32 provides that-

- (1) If it appears, on the report of a division of the House by the tellers, that a quorum is not present, the President will adjourn the House until a later hour of the day or the next sitting day. No decision of the House will be considered to have been reached by that division.*
- (2) When the Chair of Committees informs the President that a quorum is not present in committee, the bells will ring for five minutes. The President will then count the House, and if a quorum is still not present, will adjourn the House until a later hour of the*

day or the next sitting day. However, if a quorum is then present, the President will leave the Chair and the committee resume.

- (3) If a member draws attention to the lack of a quorum, the bells will be rung until a quorum is formed but for no longer than five minutes. If after five minutes a quorum is not present, the President will adjourn the House until a later hour of the day or the next sitting day.*
- (4) When the attention of the President, or the Chair of Committees, has been called to the absence of a quorum, a member may not leave until the House or committee has been counted. The doors of the House will be unlocked while the President is counting the House.*
- (5) When the House has adjourned for lack of a quorum the names of the members present will be entered in the Minutes of Proceedings.*

(d) The Senate of Philippines

Section 16 (2) of the Constitution of Philippines states-

“A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner, and under such penalties, as such House may provide.”

Rule XV, Sec. 44 states as follows-

“Except during the election of officers as provided in Section 2, a majority of the Senators shall constitute a quorum and, in its absence, a smaller number may adjourn from day to day and may compel the attendance of absent Members in the manner provided in Section 99 hereof.”

Sec. 99 states as follows-

“Notwithstanding the provision of the preceding section, the lack of quorum shall compel the President to adjourn the session, unless, by means of motion, which shall not be subject to debate, a majority of the Senators present agree to its suspension and ask the President or Presiding Officer to order the Sergeant-at-Arms to require the appearance of the absent Members or, if it is deemed necessary, to order their arrest so as to form the necessary quorum.”

(e) The House of Commons of Canada

Article 48 of the Constitution of Canada states-

"The presence of at least twenty Members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers, and for that purpose the Speaker shall be reckoned as a member."

Article 35 has a similar provision for the Senate but sets the quorum at 15 Senators.

Standing Order 29 of the House state as follows-

"(1) The presence of at least twenty Members of the House, including the Speaker, shall be necessary to constitute a meeting of the House for the exercise of its powers.

(2) If at the time of meeting there be not a quorum, the Speaker may take the chair and adjourn the House until the next sitting day."

(f) House of Representatives of the Federal Republic of Nigeria

As presently provided, Quorum of the House shall not be less than one third of all Members of the House. Further, the Standing Orders provide for the requirement for quorum when taking a division and in Committee of the Whole as follows-

(2) "if any Member draws the attention of the Speaker to the fact that a quorum of the House is not present, or if, from the number of Members taking part in a division including those Members who declined to vote, it appears that a quorum is not constituted, the Speaker shall direct strangers to withdraw and cause Members to be summoned as if for a vision. At the expiration of two minutes from the order to strangers to withdraw, the speaker shall count the House and, if a quorum is not then constituted, shall adjourn the House forthwith.

(3) If notice be taken in a committee of the whole that a quorum is not present, the chairman shall follow the course pursued by the speaker in accordance with sub-rule (2) of this rule. If he ascertains that less than one-third of all members are present, the chairman shall leave the chair, and the house shall be resumed; whereupon the speaker shall count the house. If a quorum is then present, the house shall again resolve itself into committee but if a quorum is not present, the speaker shall adjourn the house forthwith.

(4) If, from the number of members taking part in a division, including those members who declined to vote, it appears that a quorum is not constituted, the division shall be invalid, the business then under consideration shall stand over until the next sitting and the speaker shall count the House as provided in sub-rules (2) and (3) of this rule. If a quorum is then constituted the next business shall be entered upon”.

Observations by the Committee

- a) According to the former President of the New South Wales Legislative Council, Sir John Hay (1867–1892), stated that the rationale for the provision of a quorum was that *“important measures ought not to be dealt with in the House without reasonable attendance of Members, and when a member believes that there is not a sufficient number present he has the right to call attention to the state of the House”*.³
- b) Turning to the local situation, the question of quorum in each House of Parliament has been clearly set out in Article 121 of the Constitution. In addition, Article 3 of the Constitution states as follows-

“(1) Every person has an obligation to respect, uphold and defend this constitution.”

- c) The onus or duty of respecting, upholding and defending the Constitution is vested in every person. However, the threshold for doing so must, in essence be higher for State Officers especially seen in the light of the provisions of Article 259(1) that provide-

This Constitution shall be interpreted in a manner that—

- a) *promotes its purposes, values and principles;*
 - b) *advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;*
 - c) *permits the development of the law; and*
 - d) *contributes to good governance.*
- d) According to the Standing Orders of the Senate of Kenya, whereas the onus to establish Quorum at the commencement of any Sitting and during voting or division is placed on a Presiding Officer, pursuant to Standing Orders 40 and 42, the same is not provided for during voting or division.

³ Ruling: Hay, LC Debates (20/10/1881) 1674 & New South Wales Legislative Council Practice page 234

- e) Further, Standing Order 41 does not place the same duty on a Presiding Officer during proceedings of the Senate. This is left to the discretion of a Senator who may draw the attention of a Presiding Officer on the lack of Quorum. This, indeed, is a practice in most parliamentary jurisdictions.
- f) Noting that quorum is a constitutional requirement, there is need to uphold it during plenary proceedings including in decision making processes and more so ascertain quorum before taking decisions. This notwithstanding, the sanctity of the Constitution in this regard must be safeguarded but at the same time ensure that the requirement for quorum does not hinder the effective and efficient discharge of legislative business.
- g) It is worth noting that decisions of the Senate are made through resolutions that are initiated through a Motion. A Motion being a proposal made to elicit the decision of the Senate.
- h) Motions maybe classified as either substantive or as procedural. Substantive motions are self-contained proposals drafted in a form capable of expressing a decision or opinion of the House. Whereas procedural motions seek to alter the procedure of the Senate. They resolve on how to transact the business of the Senate.
- i) It is crucial to appreciate the two forms of motions and apply the quorum requirement accordingly, especially to substantive motions. It is therefore proposed that the standing orders be amended to provide for ascertaining of quorum before a vote or division.

iii) *Proposals by the Senate Liaison Committee*

Proposed amendment: *Standing Order 55(1) provides that 'The facts on which a request for Statement is based may be set briefly...' This provision be implemented in the drafting of requests for Statements, to have a background section and then the list of questions/ information sought.*

Committee Observations:

The Committee observed that-

- a) Various opportunities are already available for the background information to be provided. Firstly, Senators are accorded an opportunity to provide the background information at the point of

submitting a request for Statement, pursuant to Standing Order 55. This information enables the Clerk to review and fine tune the Statement for approval by the Rt. Hon. Speaker. Further, there is an opportunity for a Senator to provide more information to a Committee once the Statement has been sought on the floor of the Senate. Noting that Standing Order 53(3) also provides for comments from Senators, the Hansard report is a resource for further information.

b) The issues raised are provided for under Standing Order 55(1).

Proposed amendment: *The Senate considers enhancing the membership of CPAC and CPI&SFC to enable them to establish sub-Committees and thus clear the pending backlog of audit reports. This will enable them to consider the most recent audit reports.*

Committee Observations:

The Committee observed that-

- a) Currently, Standing Order 207 provides for the establishment of sub-committees for proper discharge of functions by committees.
- b) The number of Senators vis-à-vis the number of Committees does not allow a Senator to effectively participate in Committees' activities.
- c) The practice in other Parliaments is for committees such as CPAC & CPI&SFC, to have a higher membership than that of other Committees of the House.
- d) In the 11th and 12th Parliaments the membership of CPAC in the Senate, before it was split into the current committees (CPAC & CPI&SFC), was eleven Members.
- e) The proposed enhanced Membership will further affect the shrinking allocation to Committees.
- f) The proposed amendments should therefore be rejected.

Proposed amendment: *Standing Order 192 be amended to designate a Vice Chairperson for the Committee, to deputise the Chairperson and preside over meetings in the absence of the Chairperson.*

Committee Observations:

The Committee observed that-

- a) Some Houses of Parliament such as the Kenya National Assembly have designated the position of Vice Chairperson to a Member of

the Chairperson's Panel which is equivalent to Senate's Speaker's Panel.

- b) Standing Order 212 provides that in the absence of the Chairperson and the Vice Chairperson at any meeting, a member of the Committee designated by the Chairperson shall take the Chair and, in the absence of such designated member, the members of the Committee present shall elect one of them to take the Chair.
- c) Therefore in the absence of the Chairperson who is the Deputy Speaker, may designate a Member of the Committee to the role of Chairperson, at his discretion. Therefore there is no need to amend the Standing Orders.

Proposed amendment: *Standing Order 131(1) be amended to import the provisions of Standing Order 130(2) on the aspects of a legislative proposal that Committees should inquire into.*

Committee Observations:

The proposal is adequately catered for under Standing Order 131(1)(a).

8. **Proposed amendment:** *Standing Order 131(1) be amended by deleting the word 'or' appearing at the end of paragraph (a) and inserting in place thereof the word 'and'*

Committee Observations

- a) The term "or" is a conjunction used to link alternatives.
- b) Standing Order 131(1) as currently drafted gives a Committee the option to implement Standing Order 131(1)(a) or Standing Order 131(1)(b).
- c) The action required from the Committee is on both options hence the proposal may be recommended.

Proposed amendment: *The Senate to consider re-introduction of an implementation committee tasked with following up with MDAs, constitutional commissions, and independent offices on the implementation of resolutions of the Senate and its Committees.*

Committee Observations:

A similar proposal has been made by Sen. Miraj Abdillahi Abdulrahman, MP.

iv) by Sen. Eddy Oketch, MP, Senator for Migori County on Statements and Questions

Proposed amendment to Standing Order 51C (5):

Paragraph 5 be amended by:-

- i.) renumbering the paragraph as 5 (a); and
- ii.) inserting a new paragraph 5(b) which provides that *“the physical and electronic copies shall be circulated to the Senators at least twelve hours before the Cabinet Secretary appears before the Senate”*

Committee Observations

The provisions presently in the Standing Orders adequately cover the concern raised by the Senator. It is a matter of compliance of already existing provisions.

Proposed amendment to Standing Order 51C (7)(b):

be amended by-

Deleting the paragraph and substituting thereof the following new paragraph *“allow Senators to ask supplementary Questions”*

Committee Observations

- a) Presently a Senator may ask one supplementary question. This is done at the discretion of the presiding officer.
- b) The proposed amendment should, therefore be rejected.

Proposed amendment to Standing Order 54:

That Standing Order 54 be amended as follows:-

By inserting a new paragraph 3 below paragraph 2 which provides that:-

“Where no Senator seeks a Statement at the time specified by or under these Standing Orders, such Statement shall not be published again in the Order Paper during the same Session except with the leave of the Speaker.”

Committee Observations

The current practice sufficiently addresses the issue and accords the Speaker the discretion to make a determination based on the prevailing circumstances, some of which are unavoidable.

v) *Amendments by Sen. Miraj Abdillahi Abdulrahman, MP, Nominated Senator to establish the Committee on Implementation*

It is worth noting that the Committee on Implementation had been provided for in the 11th Parliament (Second Senate) at Standing Order 210 which stated-

The Sessional Committee on Implementation shall scrutinize the resolutions of the Senate (including adopted committee reports), petitions and formal undertakings given by the National Executive and examine-

- a) Whether or not such resolutions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within a reasonable time; and*
- b) Whether or not legislation passed by the Senate has been operationalized, the extent to which such operationalization has taken place within a reasonable time.*

The Standing Orders were further revised on 27th February, 2014 and 25th November, 2014 and the mandate of the Committee of Implementation was revised as follows-

- (1) The Sessional Committee on Implementation shall scrutinize the resolutions of the Senate (including adopted Committee reports), petitions and formal undertakings given by the National Executive and examine-*
 - a) Whether or not such resolutions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within a reasonable time;*
 - b) Whether or not legislation passed by the Senate has been operationalized, the extent to which such operationalization has taken place within a reasonable time; and*
 - c) Whether or not any Act of a County Assembly or subsidiary legislation affecting counties has been implemented, the extent to which such implementation has taken place and*

whether such implementation has taken place within the required or reasonable timelines.

- (2) The Committee on Implementation may, after examination under paragraph (1), where appropriate, recommend sanctions.*

During the periodic review of the Standing Orders, pursuant to Standing Order 269, at the end of the 11th Parliament, the Committee on Implementation was abolished and the mandate was transferred to Standing Committees that the Procedure and Rules Committee opined that they were best placed to handle House resolutions.

In the 12th Parliament, Sen. Millicent Omanga, MP, via a letter dated 24th October, 2019 proposed to re-introduce the Committee on Implementation; however, the Procedure and Rules Committee did not agree with the proposal. At its meeting held on 23rd September, 2020 the Procedure and Rules Committee, at the time, noted that reintroducing the Committee on Implementation would lead to duplication of mandates and further resolved that individual Committees should continue to follow-up on implementation within their mandate as opposed to forming an additional Committee.

In other jurisdictions across the world, House resolutions are handled as follows-

a) The Kenya National Assembly

Standing Order 209 of the Kenya National Assembly establishes the Committee on Implementation. The Standing Order provides that:-

- 1) There shall be a select committee to be known as the Committee on Implementation (2)*
- 2) The Committee shall scrutinize the resolutions of the House (including adopted committee reports), petitions and the undertakings given by the National Executive and examine—*
 - a) whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and*
 - b) (b) whether or not legislation passed by the House has been operationalised and where operationalised, the extent to*

which such operationalisation has taken place within the minimum time necessary.

- 3) The Committee may propose to the House, sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons.*
- 4) The Committee on Implementation shall consist of a Chairperson and not more than twenty-two other members.*
- 5) In the Membership of the Committee on Implementation, parties other than parliamentary parties forming the national government shall have a majority of one."*

Further, Standing Order 178 (2) of the Kenya National Assembly Standing Orders provides that-

"(2) The Members of the Public Accounts Committee, the Public Investments Committee and the Committee on Implementation shall elect a Chairperson and Vice-Chairperson from amongst the members of the Committees nominated from a party other than a parliamentary party forming the national government."

b) Council of States (Rajya Sabha) of India

Rule 212A of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) provides for the Committee of Government assurances which can be equated to the Implementation Committee. The rule provides as follows-

"212A. Committee on Government Assurances

There shall be a Committee on Government Assurances to scrutinize the assurances, promises, undertakings, etc., given by Ministers, from time to time, on the floor of the Council and to report on —

- a) the extent to which such assurances, promises, undertakings, etc., have been implemented; and*
- b) when implemented whether such implementation has taken place within the minimum time necessary for the purpose."*

c) House of Representatives, Parliament of the Federal Republic of Nigeria

It has established a Committee on Legislative Compliance comprising of not more than 25 Members constituted during the life of the House.

Pursuant to Standing Order 46(2) it is charged with-

(a) ensuring the implementation of all House Resolutions on Motions, Petitions and other resolutions;

(b) follow-up and receive the report of all House Delegations to local and international parliamentary conferences, seminars and cause communiqué decisions and agreements to be presented to, and acted upon by the House; and

(c) annual budget estimates.

d) The National Council of Provinces (NCOP) of South Africa

The National Council of Provinces (NCOP) of South Africa is an equivalent of the Kenyan Senate. The NCOP does not have a Committee on Implementation but has Select Committees which are aligned to the respective Government Departments just like the Standing Committees in the Kenyan case and operate the same way; overseeing the operations of the respective Government agencies and following up the implementation of the resolutions of the NCOP.

Rule No. 252 of the NCOP provides that Resolutions of the Council affecting the executive must be communicated to the President by the Secretary, and a response may be communicated to the member who initiated the resolution.

e) Senate of the Philippines

The Senate of the Philippines has 41 Permanent Committees but does not have an Implementation Committee. Each permanent Committee handles Senate resolutions that fall under their mandate just like Standing Committees in the Senate of Kenya.

The Resolutions of the Senate of the Philippines are directed to the relevant Committees to conduct an investigation and come up with relevant legislation on the issue/ matter of policy gap being addressed by the Motion.

f) New South Wales Legislative Council

Where action is required from Government, the Clerk refers all committee reports that require action to the Leader of Government for a response. The government must, within 6 months of a report

being tabled, report to the House what action, if any, it proposes to take in relation to each recommendation of the Committee.

Further, the President of the Council is required to report to the House if a government response has not been received by 6 months deadline.

Committee Observations

The following observations were made with respect to the proposed insertion of Standing Order 194A –

- (a) Standing Order 194A (2)(c) purports to usurp the powers of county governments by providing that the Committee examines an Act of a county assembly. County Governments have the prerogative to enact their own laws and policies.
- (b) This is a standard provision for purposes of facilitating the legislature's work and for accountability. There is also need to provide for undertakings by Cabinet Secretaries whenever they appear before the Senate to respond to Questions.
- (c) Noting the unique nature of the Committee, the purpose of this is to give as many Senators as possible to serve in this Committee.
- (d) If Standing Order 194A is approved, the proposed amendments will have effect on the following provisions which will require to be amended by transferring the mandate to follow up resolutions from Standing Committees to the Committee on Implementation- Standing Order 56(2)(e); Standing Order 225(2); and Standing Order 228(4)(j)
- (e) Further, introduction of the Committee on Implementation will pose the following challenges-
 - (i) Presently, there are a total of 20 Committees meaning that each Senator is serving in at least two Committees. The effect of an additional Committee is that some Senators will serve in more than two Committees hence raising a challenge in obtaining the requisite quorum to convene committee meetings or activities.
 - (ii) Owing to the limited financial resources that have continued to diminish each Financial Year, having an additional committee will provide further constraints to the resource envelope for committees and in turn affect execution of committee activities.

- (iii) The function of following up on implementation of resolutions is currently under the purview of Standing Committees.
- (f) The proposal is therefore not recommended. The mandate to follow up on Senate resolutions should remain under the purview of the respective standing committees. This is due to the fact that these committees have interacted with the issues fully thus are best placed to make any follow-up.
- (g) With respect to undertakings made by Cabinet Secretaries during Question time, the Speaker's Panel directed that a mechanism for follow-up on commitments to provide more information be provided. This may be embedded as one of the functions for standing committees by amending Standing Order 228(4) to insert a new sub-section (k) for this purpose.

vi) By Sen. Fatuma Dullo, CBS, MP, Senator Isiolo County on recognition of parliamentary parties in Parliament

S.O 2 on Interpretation

THAT the Senate Standing Orders be amended by deleting the definition of the term "Parliamentary party" and inserting therefor the following new definition-

"Parliamentary party" means-

- (a) a party or a coalition of parties consisting of not less than five percent of the membership of the Senate; or*
- (b) a party or coalition of parties that has not met the threshold under paragraph (a) but is determined to be a parliamentary party in the National Assembly.*

Observations by Secretariat

- The Constitution at Article 108 recognizes the place and fundamental role of political parties in Parliament.
- This is further buttressed in the Senate Standing Orders that defines a "Parliamentary party" as a party or a coalition of parties consisting of not less than ten Senators. On the other hand, in the Kenya National Assembly parliamentary party consists of not less than five percent of the membership of the National Assembly, pursuant to S.O 20A.
- Further, Part VI provides for the Senate Political Leadership and their framework of work.

- In the National Assembly political parties are recognized through two main political coalitions.
- In other jurisdictions, parties not forming the majority or minority party of a House of Parliament, forge a niche through coalitions or joining the majority or minority party to execute their mandate.
- The Proposed amendment seeks to ensure that parliamentary parties recognized in one House are equally recognized in the other House.
- The proposed amendment seeks to ensure that parties that constitute of less than ten Members are also recognized. The current status of parties is as tabulated below-

Party	Elect ed	Rati o	16 Nomine es	Nominat ed- Art.98(1) (b) =Ratio*1 6	Nomina ted- Art.98(1) (c) =Ratio* 2	Nominat ed- Art.98(1) (d) Ratio*2	Tot al	Percenta ge
UDA	22	0.47	7.489	8	1	1	32	47.76
FORD-K	1	0.02	0.340	0	0	0	1	1.49
DP	1	0.02	0.340	0	0	0	1	1.49
ODM	13	0.28	4.426	5	1	1	20	29.85
WIPER DM-K	3	0.06	1.021	1	0	0	4	5.97
JUBILEE	4	0.09	1.362	1	0	0	5	7.46
UDM	2	0.04	0.681	1	0	0	3	4.48
NRA	1	0.02	0.340	0	0	0	1	1.49
TOTAL	47	1.00	16.00	16	2	2	67	100

- Looking ahead, the threshold should be maintained as presently prescribed in the Senate Standing Orders.
- The Senate is independent from the National Assembly and therefore cannot be subjected by its Standing Orders.
- This notwithstanding, that the threshold for a parliamentary party to be termed as such be atleast 5 Senators and that it must not be party of a coalition and that for a party coalition be atleast 10 Senators.

CHAPTER THREE: PROPOSED RECOMMENDATIONS

9. This chapter details the recommendations of the Committee on the proposed amendments.

10. The Committee recommends –

a) That the following amendments be rejected-

- (i) by Sen. Eddy Oketch, MP, Senator for Migori County on Statements and Questions;
- (ii) by Sen. Miraj Abdillahi Abdulrahman, MP, Nominated Senator to establish the Committee on Implementation;
- (iii) amendment by the Senate Liaison Committee on Membership of CPAC & CPI&SFC;
- (iv) amendment by the Senate Liaison Committee on stating facts on which a request for a Statement is based; and
- (v) amendment by the Liaison Committee on leadership of Liaison Committee.

b) That the following amendments be approved-

- (i) Standing Order 237 on comments on Petitions

Standing Order 237 be deleted

- (ii) Senate Resolution on Petition Reports

Standing Order 238

Standing Order 238 be amended by-

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

(2) Whenever a Petition is committed to a standing committee, the committee shall, in not more than sixty calendar days from the time of reading the prayer, table its report to the Senate for consideration.

- (b) inserting the following new paragraph immediately after paragraph (2)-

(3) The Senate shall consider a report under paragraph (2), within fourteen sitting days of its tabling.

Standing Order 239

That the Senate Standing Orders be amended by deleting Standing Order 239 and substituting therefor the following -

239. Notification to Petitioner

The Clerk shall within fifteen days of the resolution of the Senate, under standing order 238, in writing, notify the petitioner of the decision of the Senate.

(iii) Quorum

The Senate Standing Orders be amended by deleting standing order 42 and substituting thereof the following Standing Order -

42. Quorum during Division or Voting

(a) Before taking an electronic vote, roll call division or a voice vote, the Speaker or Chairperson of the Committee of the Whole, shall cause a count to be taken of Senators present in the Senate or the Committee.

(b) If the requisite quorum is -

- (i) present, division or voting shall be proceeded with;*
or
- (ii) not present, standing order 41(2) shall apply.*

(c) This Standing Order shall not apply to the process of voting on procedural motions.

(iv) Establish a follow-up mechanism on undertakings by Cabinet Secretaries on Questions

Standing order 228(4) be amended by inserting the following new sub-paragraph immediately after sub-paragraph (j)-

(k) follow up and report on the status of commitments made by Cabinet Secretaries in their response to questions under standing order 51C.

(v) Consideration of legislative proposals

Standing Order 131(1)(b) be amended by deleting the conjunction “or” appearing at the end of paragraph (a) and substituting therefor the conjunction “and”.

(vi) Amendment of “Parliamentary party”

Standing Order 2 be amended by deleting the definition of the term “Parliamentary party” and substituting therefor the following definition-

*“Parliamentary party” means-
a party not in a coalition with another party
consisting of at least five Senators; or
a coalition of parties consisting of at least ten
Senators.*

c) resolve that, pursuant to Standing Order 272, the amendments, take effect from 25th June, 2024; and

d) resolve that if the proposed amendments are approved, an addendum to the Standing Orders be published.

Annex 1:
Proposed amendments
for approval by the
Senate

Annex 1: Proposed amendments to the Standing Orders

That the Senate Standing Orders be amended as follows –

(i) Standing Order 42

The Senate Standing Orders be amended by deleting standing order 42 and substituting thereof the following Standing Order –

42. Quorum during Division or Voting

- 1.) *Before taking an electronic vote, roll call division or a voice vote, the Speaker or Chairperson of the Committee of the Whole, shall cause a count to be taken of Senators present in the Senate or the Committee.*
- 2.) *If the requisite quorum is –*
 - a) *present, division or voting shall be proceeded with; or*
 - b) *not present, standing order 41(2) shall apply.*
- 3.) *This Standing Order shall not apply to the process of voting on procedural motions*

(ii) Standing Order 131

Standing Order 131(1)(b) be amended by deleting the conjunction “or” appearing at the end of paragraph (a) and substituting therefor the conjunction “and”.

(iii) Standing Order 228

Standing order 228(4) be amended by inserting the following new sub-paragraph immediately after sub-paragraph (j)-

(k) follow up and report on the status of commitments made by Cabinet Secretaries in their response to questions under standing order 51C.

(iv) Standing Order 237

Standing Order 237 be deleted

(v) Standing Order 238

Standing Order 238 be amended by-

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

(2) Whenever a Petition is committed to a standing committee, the committee shall, in not more than sixty calendar days from the time of reading the prayer, table its report to the Senate for consideration.

(b) inserting the following new paragraph immediately after paragraph (2)-

(3) The Senate shall consider a report under paragraph (2), within fourteen sitting days of its tabling.

(vi) Standing Order 239

That the Senate Standing Orders be amended by deleting Standing Order 239 and substituting therefor the following -

239. Notification to Petitioner

The Clerk shall within fifteen days of the resolution of the Senate, under Standing order 238, in writing, notify the petitioner of the decision of the Senate.

(vii) Standing Order 2

Standing Order 2 be amended by deleting the definition of the term "Parliamentary party" and substituting therefor the following definition-

"Parliamentary party" means- a party not in a coalition with another party consisting of at least five Senators; or a coalition of parties consisting of at least ten Senators.

Annex 2:
Correspondence on
the proposed
amendments.

Please incorporate the suggestions we have proposed to amend SOs.

201 REPUBLIC OF KENYA

21.03.2024

Telegraphic Address

'Bunge', Nairobi

Telephone 2848000

Fax: 2243694

E-mail: clerk.senate@parliament.go.ke



PARLIAMENT

OFFICE OF THE CLERK OF THE SENATE

THE SENATE
RECEIVED

13 MAR 2024

DIRECTOR LEGISLATIVE AND
PROCEDURAL SERVICES
The Senate

Clerk's Chambers

Parliament Buildings

P. O. Box 41842 - 00100

NAIROBI, Kenya

Ref: SLC/RES.22/2024

Date: 13th March, 2024

Mr. Njenga Ruge, OGW,
Director, Legislative and Procedural Services,
Parliament Buildings,
NAIROBI.

(C)
~~Mr. Njenga Ruge (OGW)~~
~~Mr. Amolo (OGW)~~

*ps review the attached
resolutions and revert
by 21/3/24*

Dear Director,

RE: RESOLUTIONS AND WAY FORWARD OF THE LIAISON
COMMITTEE WORK REVIEW AND PLANNING RETREAT HELD
ON 5TH - 8TH FEBRUARY, 2024, IN NAIVASHA, NAKURU COUNTY

The Liaison Committee held a Work Review and Planning Retreat on 5th to 8th February, 2024 in Naivasha, Nakuru County. During deliberations, Members made observations and recommendations on various aspects affecting Committee operations which were set out in the Resolutions and Way Forward of the Retreat.

At its 25th Meeting held on Wednesday, 28th February, 2024, the Committee considered and adopted the Resolutions and Way Forward of the Retreat. The resolutions relating to the Directorate of Legislative and Procedural Services and the Housekeeping Committees under the Directorate are attached as an Annex to this letter.

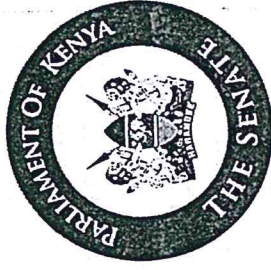
This is therefore to bring to your attention the said resolutions and recommendations, and to request that you take the necessary action(s) to implement them.

Yours faithfully,

NJENGA NJUGUNA

DIRECTOR, GOVERNANCE AND ACCOUNTABILITY COMMITTEES

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | SECOND SESSION


THE SENATE

RESOLUTIONS AND WAY FORWARD OF THE
LIAISON COMMITTEE WORK REVIEW AND PLANNING RETREAT

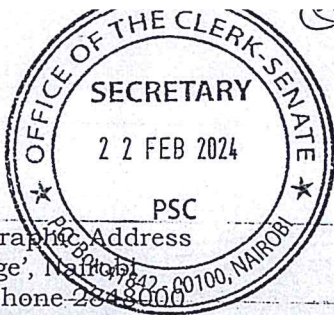
LAKE NAIVASHA SAWELA LODGE, NAIVASHA, NAKURU COUNTY | 5TH – 8TH FEBRUARY, 2024

RESOLUTIONS AND WAY FORWARD

No	Issue/ Gap	Resolutions and Way forward	Action	Timeline
1.	Structure of Statements - The rules in the Senate Standing Orders on the framing of requests for Statements means that the information made available to Committees and the entities required to respond is inadequate.	Standing Order 55(1) provides that ' <i>The facts on which a request for Statement is based may be set briefly...</i> ' This provision be implemented in the drafting of requests for Statements, to have a background section and then the list of questions/ information sought.	DLPS	Immediate
2.	Enhancing the operations and output of audit and scrutiny Committees	As far as possible, Chairpersons of Standing Committees to not serve as members of CPAC and CPIC, noting that the two Committees sit daily, when other Committees also hold their meetings The Senate considers enhancing the membership of CPAC and CPIC to enable them to establish sub-Committees and thus clear the pending backlog of audit reports. This will enable them to consider the most recent audit reports	Senate Business Committee Procedure and Rules Committee	February, 2025 April, 2024
3.	Dormant or inactive members in Committees	The Senate to, on an annual basis, review the attendance and participation of members in their respective Committees with a view to ensuring that Committees are facilitated to	Senate Business Committee/ Majority and	Annually


 Chairperson
 2024-03-28
 2024-03-28

			have full capacity through the replacement of dormant and inactive members	Minority Whips		
4.	Enhancing the operations of the Liaison Committee		Standing Order 192 be amended to designate a Vice Chairperson for the Committee, to deputise the Chairperson and preside over meetings in the absence of the Chairperson	Procedure and Rules Committee	April, 2024	
5.	Consideration of Legislative Proposals by Committees		Standing Order 131(1) be amended to import the provisions of Standing Order 130(2) on the aspects of a legislative proposal that Committees should inquire into.	Procedure and Rules Committee	April, 2024	
			Standing Order 131(1) be amended by deleting the word 'or' appearing at the end of paragraph (a) and inserting in place thereof the word 'and'.	Procedure and Rules Committee	April, 2024	
6.	Implementation of other Resolutions of the Senate		The Senate to consider re-introduction of an implementation committee tasked with following up with MDAs, constitutional commissions, and independent offices on the implementation of resolutions of the Senate and its Committees	Procedure and Rules Committee	April, 2024	



Telegraphic Address
'Bunge', Nairobi
Telephone-2243000
Fax: 2243694

Please deal as no. 3
before including with
a paper for PSC.

REPUBLIC OF KENYA



201
23.02.24

The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

22 FEB 2024
PARLIAMENT
THE SENATE

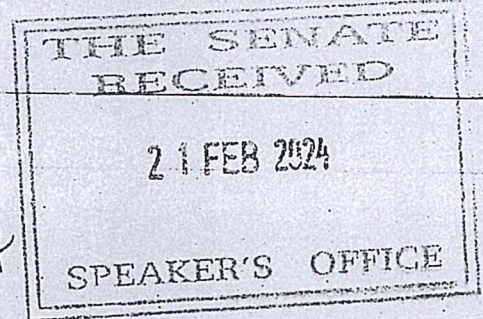
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19TH FEBRUARY, 2024

Rt. Hon Amason Jeffah Kingi, EGH, MP

Speaker of the Senate,
P.O. Box 41842-00100,
Parliament Buildings,
NAIROBI.

① DC(MA)
Please process
22/02/24



Dear

RE: PROPOSED AMENDMENTS TO STANDING ORDERS PURSUANT TO STANDING ORDER 268

This is to express my concern regarding the current absence of the Implementation Committee within Senate. As a dedicated member of our esteemed Legislative body, I believe it is crucial to establish this committee to ensure the effective implementation of Senate Resolutions. The Implementation Committee will play a vital role in overseeing the execution of decisions made by the Senate. The absence of a dedicated Committee to follow up on matters has resulted in inefficiencies in the implementation of various initiatives and resolutions passed by our Honorable Members.

Therefore, I urge you to take into consideration my amendment to the Standing Orders to establish the Implementation Committee in the Senate. By doing so, we can enhance accountability, transparency, and the overall functionality of our Legislative processes. Furthermore, reinstating this committee will demonstrate our commitment to upholding the principles of good governance and serving the best interests of the people we represent.

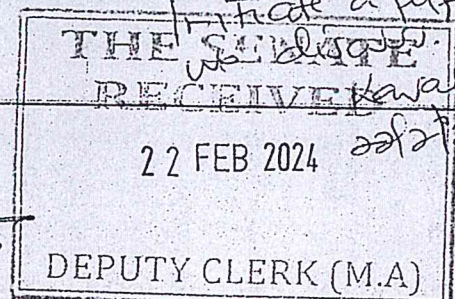
Attached herein are the proposed amendments including the justification and a list containing names and signatures of fifteen Senators supporting the proposed amendments for your consideration.

Thank you.

MIRAJ ABDILLAH

**SEN. MIRAJ ABDILLAH ABDULRAHMAN, MP,
NOMINATED SENATOR.**

⑥ polycarp

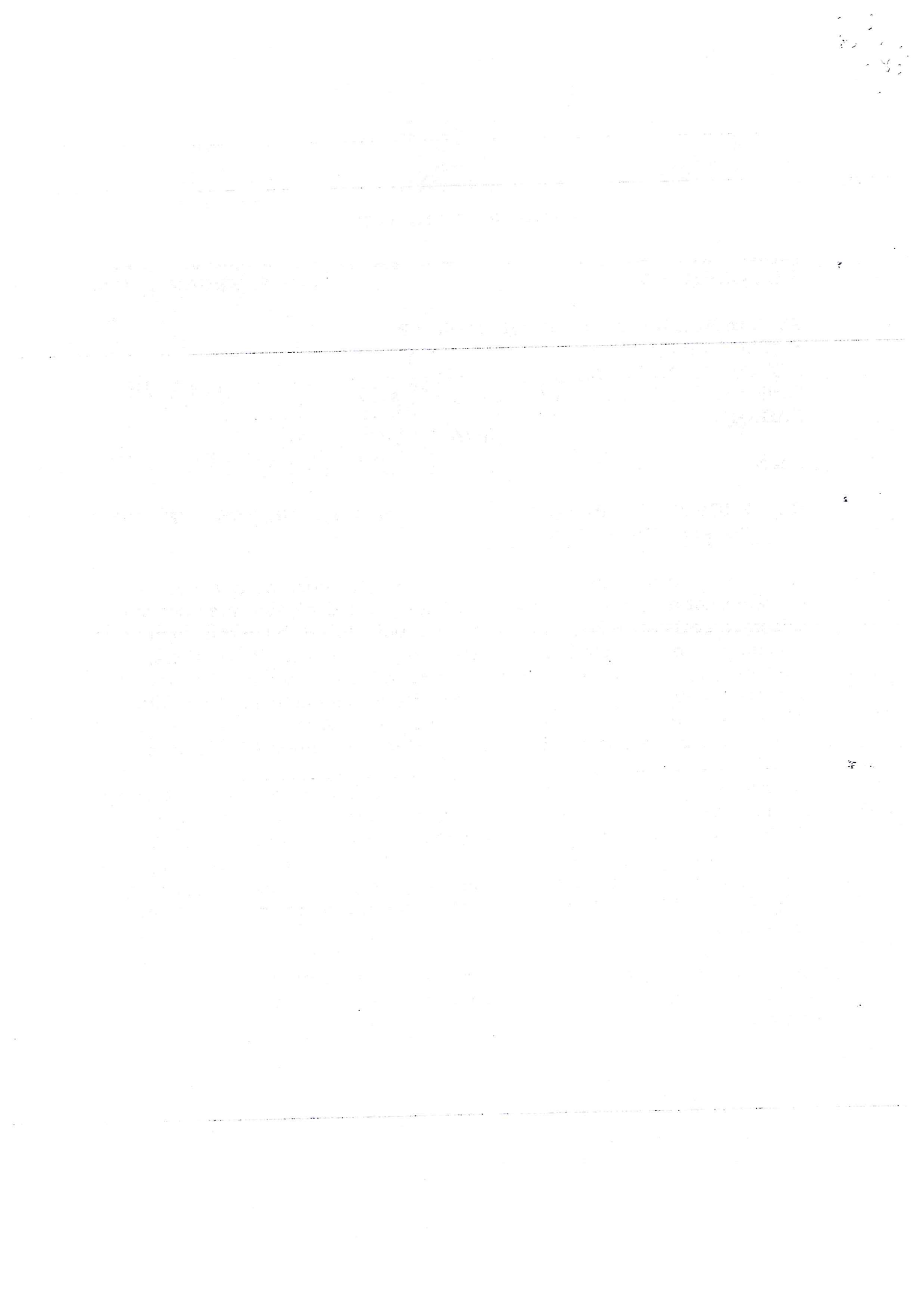


③ Mr. Moge (COO LASS)

ps. please initiate convening
of PSC, noting timelines

② DLPS

Please process for




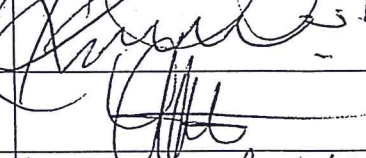
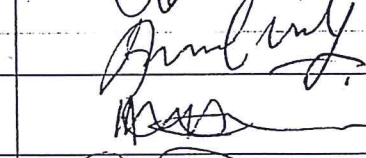

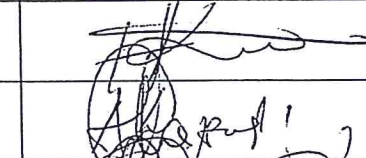
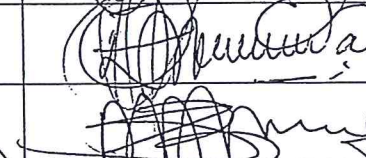
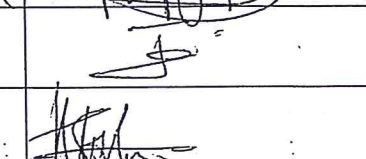
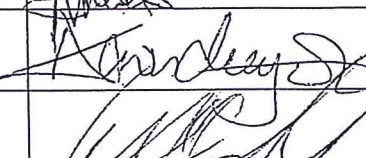
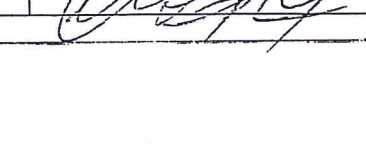




PROPOSAL TO ESTABLISH THE COMMITTEE ON IMPLEMENTATION

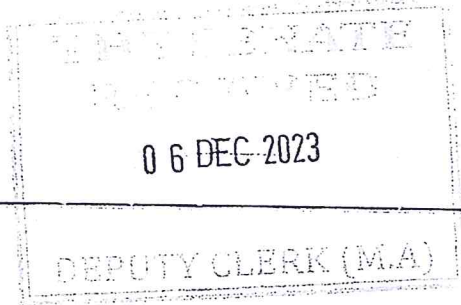
New Standing Order 194A

- (1) There shall be a select committee to be known as the Committee on Implementation.
 - (2) The Committee shall scrutinize the resolutions of the Senate (including adopted committee reports), petitions and the undertakings given by the National Executive and County Governments and examine—
 - a) whether or not such decisions and undertakings have been implemented; and where implemented, the extent to which they have been implemented within the minimum time necessary;
 - b) whether or not legislation passed by the Senate has been implemented and operationalized, where applicable within the minimum time necessary; and
 - c) whether or not any Act of a County Assembly or subsidiary legislation affecting counties has been implemented and the extent to which such implementation has taken place.
 - (3) The Committee may propose to the Senate, sanctions against the relevant Cabinet Secretary, independent Commission or holder of an independent office who fail to report to the Committee, on the implementation status without justifiable reasons.
 - (4) In the membership of the Committee on Implementation, parties or coalition of parties not forming Government shall have a majority of one.
 - (5) The Committee constituted immediately after a general election shall serve for a period of three sessions and that constituted thereafter shall serve for the remainder of that term of Parliament.
-

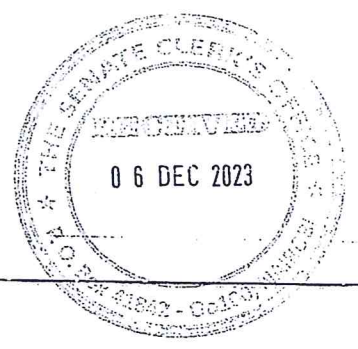
- (1) Presently the function to follow up on resolutions passed by the Senate is placed under the respective Standing Committees. However, owing to the volume of work and priorities of respective standing committees, this function has ended up falling through the cracks.
- (2) Implementation of resolutions is a critical aspect of the work of Senate as it enables it to not only measure its impact as an institution but to have critical decisions of the Senate implemented. Therefore, there is need for a committee to be established to specifically follow up on implementation of resolutions by the Senate and report to the Senate.
- (3) The Sanctions imposed by an implementation committee in the Senate can potentially enhance compliance by the respective bodies.

**SENATORS SUPPORTING THE PROPOSED AMENDMENTS TO THE
STANDING ORDERS TO ESTABLISH THE COMMITTEE ON
IMPLEMENTATION**

NO.	NAME OF SENATOR	SIGNATURE
1.	Stewart M. Mody	
2.	Cheney Apurite	
3.	Myam Kureh	
4.	Senator Mumbigi	
5.	SENATOR KAVINDU	
6.	SENATOR LORENEN JAMES	
7.	MABIHA MUTINDA	
8.	HAMIDA KIBWANTA	
9.	ALLAN CHEPANE	
10.	Enoch Wambua	
11.	Daniel Mung'anya	
12.	Joyce Koro	
13.	John Muthuri	
14.	Aaron Cheyrot	
15.	GEORGE MURUGA	



please deal
201
06.12.23



REPUBLIC OF KENYA



OFFICE OF THE SENATOR
MIGORI COUTY

Rt. Hon. Amason Jeffah Kingi, EGH, MP,
Speaker of the Senate,
P. O. Box 41842 -00100,
Parliament Buildings,
NAIROBI.

5th December, 2023

Dear

② DC (MA)
Please process.
06/12/23

RE: PROPOSED AMENDMENTS TO STANDING ORDERS PURSUANT TO STANDING ORDER 268

The subject matter refers:

Attached hereby find the proposed amendments, the justification of the proposals and a list containing names and signatures of fifteen senators supporting the amendments for your consideration.

Thank you in advance.

SEN. EDDY GICHERU OKETCH,
SENATOR FOR MIGORI COUNTY.

① Clerk
Krispy Sent
06/12/23

④ Mr. Magye (CD 1088)
PS blur before PRC
6/12/23

③ DLPS
Please process.
6/12/23

AMENDMENTS TO STANDING ORDERS:-

1. That Standing Order 51 (C) be amended as follows:-

A. Paragraph 5 be amended by:-

- i.) renumbering the paragraph as 5 (a); and
- ii.) inserting a new paragraph 5(b) which provides that "the physical and electronic copies shall be circulated to the Senators at least twelve hours before the Cabinet Secretary appears before the Senate"

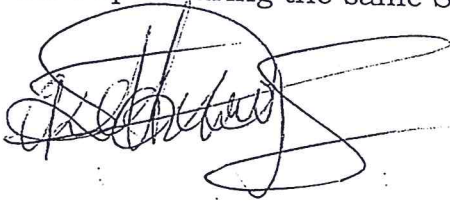
B. (7) (b) be amended by-

Deleting the paragraph and substituting thereof the following new paragraph "allow Senators to ask supplementary Questions"

2. That Standing Order 54 be amended as follows:-

By inserting a new paragraph 3 below paragraph 2 which provides that:-

"Where no Senator seeks a Statement at the time specified by or under these Standing Orders, such Statement shall not be published again in the Order Paper during the same Session except with the leave of the Speaker."



SEN. EDDY OKETCH, MP

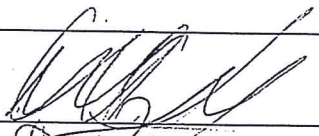
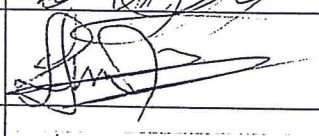
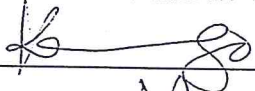
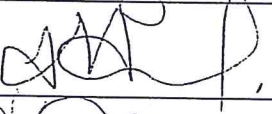
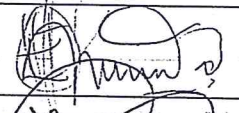
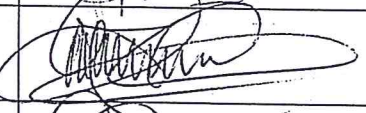
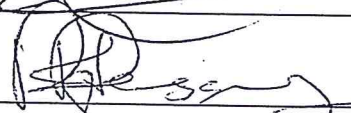
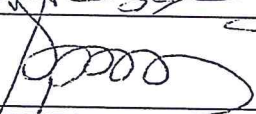
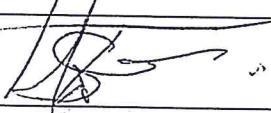
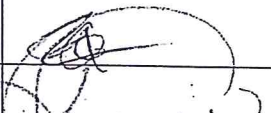
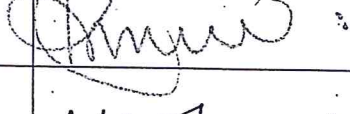


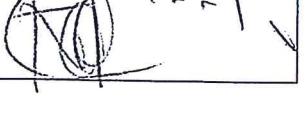
SENATOR FOR MIGORI COUNTY

DATE: 28TH NOVEMBER, 2023

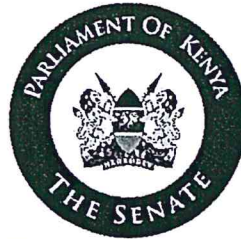
JUSTIFICATION FOR THE PROPOSED AMENDMENTS PURSUANT TO STANDING ORDER 268(2) (a)

S/No.	Proposed amendment	Justification for the Amendment
	<p><u>Standing Order 51C(5):</u></p> <p>A. Paragraph 5 be amended by:-</p> <ol style="list-style-type: none"> i.) renumbering the paragraph as 5 (a); and ii.) inserting a new paragraph 5(b) which provides that “the physical and electronic copies shall be circulated to the Senators at least twelve hours before the Cabinet Secretary appears before the Senate” 	<p>Cabinet Secretaries have been submitting their responses a few minutes before they take the podium to answer the Questions. The amendment will deal with the challenge.</p> <p>Secondly the amendment aims at ensuring that Senators get copies of the responses a day before to enable them go through and see if the Questions are well answered and if not enable them prepare well to ask supplementary Questions.</p>
	<p>B. (7) (b) be amended by-</p> <p>Deleting the paragraph and substituting thereof the following new paragraph “allow Senators to ask supplementary Questions”</p>	<p>The amendment will give a chance to Senators to ask more than one Question. This is because the one supplementary Question provided for in this Standing Order limits Senators from adequately interrogating the contents of the Responses given by the Cabinet Secretaries.</p>
	<p><u>Standing Order 54:</u></p> <p>That Standing Order 54 be amended as follows:-</p> <p>By inserting a new paragraph 3 below paragraph 2 which provides that:-</p>	<p>This is to provide for a neater way of dropping Statements as is the case for Motions under Standing Order 64(3).</p>
	<p>“Where no Senator seeks a Statement at the time specified by or under these Standing Orders, such Statement shall not be published again in the Order Paper during the</p>	

**SENATORS SUPPORTING SENATOR EDDY OKETCH'S
AMENDMENTS TO THE STANDING ORDERS**

S/No.	NAME OF SENATOR	SIGNATURE
1.	SEN. GEORGE M. MUKHIA	
2.	Sen. James Lamken	
3.	Sen. Kadungu wa Thangwa	
4.	Sen. Muthara K.	
5.	Sen. Enoch Wambui	
6.	Sen. Joseph Kithure	
7.	SEN. PETER TOROKO	
8.	Sen. William Cheptum	
9.	Sen. Sekel Barar	
10.	Sen. Gloria Arusha	
11.	Sen. Cheronyo Kiprotich	
12.	SEN. MIRAS ABDILLAH	MIRAS ABDILLAH
13.	Sen. Karen Nyamira	
14.	Sen. Danson Mung'ala	
15.	Sen. Jobite Mutinda	

Annex 3:
Committee Minutes



THIRTEENTH PARLIAMENT – THIRD SESSION

MINUTES OF THE FIRST (1ST) MEETING OF THE PROCEDURE AND RULES COMMITTEE HELD ON THURSDAY, 2ND MAY 2024, IN COMMITTEE ROOM FOUR, MAIN PARLIAMENT BUILDINGS, NAIROBI, AT 10.23 A.M

PRESENT

- | | |
|--------------------------------------|--|
| 1. Sen. Amason Jeffah Kingi, EGH, MP | - Speaker of the Senate /
Chairperson |
| 2. Sen. Kathuri Murungi, MGH, MP | - Deputy Speaker |
| 3. Sen. Wakili Hillary Sigei, MP | - Member |
| 4. Sen. Joe Nyutu, MP | - Member |
| 5. Sen. Beth Syengo, MP | -Member |
| 6. Sen. Catherine Muyeka Mumma, MP | - Member (Attended virtually) |
| 7. Sen. Veronica Maina, MP | - Member (Attended virtually) |

ABSENT WITH APOLOGY

- | | |
|--------------------------------------|----------|
| 1. Sen. Abdul Mohammed Haji, CBS, MP | - Member |
| 2. Sen. Abass Sheikh, MP | -Member |

SECRETARIAT

- | | |
|-----------------------------|---|
| 1. Ms. Eunice Gichangi, MBS | - Deputy Clerk |
| 2. Mr. Njenga Ruge, OGW | - Director, Legislative and
Procedural Services |
| 3. Mr. Benedict Furaha | - Director, Speaker's Office |
| 4. Mr. Zakayo Mogere | - Deputy Director, Legislative
and Procedural Services |
| 5. Ms. Josephine Kusinyi | - Principal Legal Counsel I |
| 6. Ms. Kavata Musyoka | - Senior Clerk Assistant |
| 7. Ms. Medline Murumba | - Legal Counsel II |
| 8. Mr. Abdirahman Maalim | - Clerk Assistant III |
| 9. Mr. Polycarp Matara | - Clerk Assistant III |
| 10. Ms. Madeline Kisama | -Public Communications Officer III |
| 11. Ms. Sarah Rukwaro | - Sergeant-At-Arms |

PRC. MIN. NO. 001/2024

PRAYER

The Chairperson called the meeting to order at twenty-three minutes past ten O'clock and recited the prayer.

PRC. MIN. NO. 002/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Hillary Wakili, MP and seconded by Sen. Beth Syengo, MP.

Upon invitation by the Chairperson, the Director, Legislative and Procedural Services took the Committee through the Paper No. 001 on proposed amendments to the Senate Standing Orders.

The salient issues in the paper were that-

- The Paper was based on proposed amendments on various aspects of the Senate Standing Orders as outlined below-
 - i) Amendments by Sen. Eddy Oketch, MP on the processing of Questions and Statements in the Senate via a letter dated 5th December, 2023 received in the Office of the Speaker on 5th December, 2023 and transmitted to the Procedure and Rules Committee on the same day;
 - ii) Amendments by Sen. Miraj Abdillahi, MP on the establishment of the Committee on Implementation via a letter dated 19th February, 2024 received in the Office of the Speaker on 21st February 2024 and referred to Procedure and Rules Committee on 23rd February, 2024;
 - iii) Amendments by Sen. Fatuma Dullo, CBS, MP, to reduce the threshold in terms of numbers for recognition of a parliamentary party in the Senate via a letter dated 21st February, 2024;
 - iv) The Speaker's Panel (a sub-committee of the Procedure and Rules Committee) on ascertaining Quorum before a Division or Voting; and
 - v) The Senate Liaison Committee on the structure of Statements, membership of oversight Committees, introduction of the Committee on implementation, consideration of legislative proposals at the pre-publication scrutiny stage and the designation of a Vice Chair to the Liaison Committee.

The Procedure and Rules Committee considered the contents of the paper and resolved as follows on each proposal –

- (i) The proposal by Sen. Eddy Oketch, MP, Senator for Migori County on Statements and Questions was rejected since the concerns that he raised were adequately provided for in the Standing Orders.
- (ii) The proposal by Sen. Miraj Abdillahi Abdulrahman, MP, (Nominated Senator) to establish the Committee on Implementation was rejected since the mandate is provided for pursuant to S.O 228(4) (j) and 225.
- (iii) The proposal by the Speaker's Panel (Sub- Committee of the Procedure and Rules Committee) on ascertaining Quorum before the Senate makes a decision on any matter, the Panel approved the proposed recommendation.

- (iv) The proposal by the Senate Liaison Committee on the Membership of CPAC & CPI&SFC was rejected as it will strain the operations of the other Committees.
- (v) The proposal by the Senate Liaison Committee on stating facts on which a request for a Statement is based be rejected as it is provided for under S.O 55(1).
- (vi) The proposal by the Senate Liaison Committee on Leadership of Liaison Committee be rejected as it is provided for pursuant to S.O 212.
- (vii) The proposal by the Senate Liaison Committee on Consideration of legislative proposal at prepublication scrutiny proposing that Standing Order 131 be amended by importing the provisions of Standing Order 130(2) on the aspects of a legislative proposal that Committees should inquire into was rejected while the amendment to Standing Order 131(1) which provided that the Standing Order be amended by deleting the word 'or' appearing at the end of paragraph (a) and inserting in place thereof the word 'and' was approved.
- (viii) The proposed amendment by Sen. Fatuma Dullo, CBS, MP, on redefining the term "parliamentary party" was deferred to a later date to facilitate further consultations with the party leaders.

During the deliberations, the Committee noted that it was critical for the Senate to adopt resolutions on petition reports tabled by Standing Committees. The Secretariat was tasked with proposing an amendment for consideration by the Committee.

PRC. MIN. NO. 004/2024

**ADJOURNMENT AND DATE OF THE
NEXT MEETING**

The Chairperson adjourned the meeting at thirty-six minutes past eleven O'clock. The next meeting will be held on Thursday, 9th May, 2024 at 10.00 am.

SIGNED:



(CHAIRPERSON)

DATE:

02/05/2024



THIRTEENTH PARLIAMENT – THIRD SESSION

MINUTES OF THE THIRD (3RD) MEETING OF THE PROCEDURE AND RULES COMMITTEE HELD ON THURSDAY, 16TH MAY 2024, IN COMMITTEE ROOM FOUR, MAIN PARLIAMENT BUILDINGS, NAIROBI, AT 12:12 P.M.

PRESENT

- | | |
|--------------------------------------|---------------------------------------|
| 1. Sen. Amason Jeffah Kingi, EGH, MP | - Speaker of the Senate / Chairperson |
| 2. Sen. Kathuri Murungi, MGH, MP | - Deputy Speaker |
| 3. Sen. Wakili Hillary Sigei, MP | - Member |
| 4. Sen. Beth Syengo, MP | - Member |
| 5. Sen. Veronica Maina, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|------------------------------------|----------|
| 1. Sen. Abdul Haji, CBS, MP | - Member |
| 2. Sen. Joe Nyutu, MP | - Member |
| 3. Sen. Abass Sheikh, MP | - Member |
| 4. Sen. Catherine Muyeka Mumma, MP | - Member |

SECRETARIAT

- | | |
|-----------------------------|--|
| 1. Ms. Eunice Gichangi, MBS | - Deputy Clerk |
| 2. Mr. Njenga Ruge, OGW | - Director, Legislative and Procedural Services |
| 3. Mr. Benedict Furaha | - Director, Speaker's Office |
| 4. Mr. Zakayo Mogere | - Deputy Director, Legislative and Procedural Services |
| 5. Ms. Josephine Kusinyi | - Principal Legal Counsel I |
| 6. Ms. Kavata Musyoka | - Senior Clerk Assistant |
| 7. Ms. Medline Murumba | - Legal Counsel II |
| 8. Mr. Polycarp Matara | - Clerk Assistant III |

PRC. MIN. NO. 011/2024

PRAYER

The Chairperson called the meeting to order at twelve minutes past twelve O'clock and recited the prayer.

PRC. MIN. NO. 012/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Kathuri Murungi, MGH, MP and seconded by Sen. Veronica Maina, MP.

PRC. MIN NO. 013/2024:

CONFIRMATION OF THE MINUTES OF THE PREVIOUS MEETING

The minutes of the 2nd meeting of the Committee were confirmed as a true record of the deliberations of the meeting having been proposed by Sen. Wakili Hillary Sigei, MP and seconded by Sen. Beth Syengo, MP.

PRC. MIN NO. 014/2024: MATTERS ARISING

Ex. PRC. Min. No. 009/2024 Any Other business

Committee Benchmarking Visit

It was noted that besides a benchmarking visit, there was need for the Committee to hold a retreat to enable members go through the Standing Orders, internalize them and establish areas that need to be amended wholesomely instead of the piecemeal approach that the Committee is currently using.

PRC. MIN. NO. 015/2024

**CONSIDERATION OF DRAFT REPORT
OF THE PROCEDURE AND RULES
COMMITTEE ON THE PROPOSED
AMENDMENTS TO THE SENATE
STANDING ORDERS.**

Upon invitation by the Chairperson, the Director, Legislative and Procedural Services took the Committee through draft report on the proposed amendments to the Senate Standing Orders.

In addition to the other proposed amendments that were approved during the First and Second meetings, the Committee approved the proposed amendment by Sen. Fatuma Dullo, CBS, MP on the definition of “parliamentary party” to provide for a minimum of five Senators for a political party or ten Senators in the event of a coalition of parties.

The Committee thereafter adopted the draft Report after it was proposed by Sen. Veronica Maina, MP and seconded by Sen. Kathuri Murungi, MGH, MP and approved for tabling before the Senate.

PRC. MIN NO. 016/2024: ANY OTHER BUSINESS

Sen. Wakili Hillary Sigei, MP expressed concern that there are more than one versions of the Standing Orders in use and urged that there is need to only have the updated version and withdraw the rest.

PRC. MIN. NO. 017/2024

**ADJOURNMENT AND DATE OF THE
NEXT MEETING**

The Chairperson adjourned the meeting at twenty seven minutes past twelve O'clock. The next meeting will be held on notice.

SIGNED:
(CHAIRPERSON)

DATE: