



REPUBLIC OF KENYA

12TH PARLIAMENT

THE NATIONAL ASSEMBLY

ADDENDUM

TO THE

National Assembly

STANDING ORDERS

(No. 1)

**1st Addendum of the Twelfth Parliament, containing amendments
made by the National Assembly on
7th December, 2017 during the First Session of the Twelfth Parliament**

(Effective date Thursday, December 07, 2017)

Amended provisions of the Standing Orders

Standing Order 172 (*Committee on Selection*); Standing Order 174 (*Criteria for nomination*); Standing Order 178 (*Chairing of select committees and quorum*); Standing Order 205 (*Public Accounts Committee*); Standing Order 205A (*Special Fund Accounts Committee*); Standing Order 206 (*Public Investments Committee*); Standing Order 207 (*Budget and Appropriations Committee*); Standing Order 208 (*Procedure and House Rules Committee*); Standing Order 209 (*Committee on Implementation*); Standing Order 210 (*Committee on Delegated Legislation*); Standing Order 212 (*Committee on Regional Integration*); Standing Order 212B (*Committee on Members' Services and Facilities*); Standing Order 213 (*Appointment of Joint Committees*); and Standing Order 216 (*Appointment and mandate of Departmental Committees*).

New Standing Orders

Standing Order 212C (*Committee on National Cohesion and Equal Opportunity*); and Standing Order 212D (*Committee on Parliamentary Broadcasting and Library*)

Amendments to Schedules

Fourth Schedule (*Joint Rules*)

Deletion of Standing Orders

Standing Order 214 (*Joint Committee on National Cohesion and Equal Opportunity*); and Standing Order 215 (*Joint Committee on Parliamentary Broadcasting and Equal Opportunity*)

Amendments to Standing Orders

- (a) *The text of the amended Standing Order 172 (Committee on Selection) is as follows¹—*

Committee on Selection

- 172.** (1) There shall be a select committee, to be designated Committee on Selection, consisting of—
- (a) the Leader of the Majority Party who shall be the Chairperson;
 - (b) the Leader of the Minority Party; and
 - (c) not less than eleven and not more than ***twenty-one*** members, who shall be nominated by parliamentary parties and approved by the House taking into consideration the interests of Independents.
- (2) The Committee on Selection shall nominate Members to serve in Committees, save for the membership of the House Business Committee and Committee on Appointments.
- (3) The Committee on Selection shall be appointed within ten days on assembly of a new House.

- (b) *The text of the amended Standing Order 174 (Criteria for nomination) is as follows—*

Criteria for nomination

- 174.** (1) In nominating Members to serve on a select Committee, the Committee on Selection shall ensure that—
- (a) the membership of each committee reflects the relative majorities of the seats held by each of the parliamentary parties in the National Assembly;
 - (b) no two members of the House Business Committee serve in the same Departmental Committee;
 - (c) so far as may be practicable, at least one independent member is nominated to serve in the Special Fund

¹ **Amendment in bold and italics**

Accounts Committee; and

(d) majority of the members of the Public Accounts Committee, Public Investments Committee, Committee on Implementation and the Special Fund Accounts Committee are drawn from parties other than parliamentary parties forming the national government.

(2) Despite paragraph (1), a Member belonging to a party other than a parliamentary party or independent Member may be nominated to serve in a select committee and the allocation of membership of select committees shall be as nearly as practicable proportional to the number of Members belonging to such parties and independent Members.

(3) Except as the House may otherwise resolve, on the recommendation of the Committee on Selection for reasons to be stated—

(a) no Member shall be appointed to serve in more than two Departmental Committees;

(b) a Member who is a Chairperson of a committee or a member of the Parliamentary Service Commission appointed under Article 127(2)(c) of the Constitution shall not serve in more than one committee.

(c) *The text of the amended Standing Order 178 (Chairing of committees and quorum) is as follows—*

Chairing of committees and quorum

178. (1) Subject to paragraph (2) of Standing Order 173 (*Nomination of Members of select committees*), unless otherwise provided under any written law, these Standing Orders or by resolution of the House a select committee shall, upon appointment, elect its Chairperson and Vice-Chairperson from amongst its members.

(1A) A member of the Parliamentary Service Commission appointed under Article 127(2) (c) of the Constitution shall not be eligible to stand for election as a Chairperson or Vice-Chairperson of a select committee.

(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.

(3) The Members of the Special Fund Accounts Committee shall elect a Chairperson and Vice-Chairperson from amongst—

(a) independent members nominated to the Committee; or

(b) the members of the Committee nominated from a party other than a parliamentary party forming the national government, in the absence of independent members.

(4) Unless otherwise provided under any written law, these Standing Orders or by resolution of the House, any five members of a select committee shall constitute a quorum.

(d) *The text of the amended Standing Order 205 (Public Accounts Committee) is as follows—*

Public Accounts Committee

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

(2) The Public Accounts Committee shall be responsible for the examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit.

(3) The Public Accounts Committee shall consist of a Chairperson and not more than *eighteen* other members.

(4) In the Membership of the Public Accounts Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(5) The Public Accounts Committee constituted immediately following the general elections shall serve for the term of that Parliament.

(e) *The text of the amended Standing Order 205A (Special Fund Accounts Committee) is as follows—*

Special Fund Accounts Committee

- 205A.** (1) There shall be a select committee to be designated the Special Funds Accounts Committee.
- (2) The Committee shall be responsible for the examination of the accounts of—
- (a) the Equalization Fund;
 - (b) the Political Parties Fund;
 - (c) the Judiciary Fund;
 - (d) the National Government Constituency Development Fund; and
 - (e) such other Fund established by law as the Speaker may direct.
- (3) The Committee shall consist of a Chairperson who shall be, so far as is practicable, be an Independent, and not more than ***eighteen*** other members.
- (4) In the Membership of the Committee, parties other than parliamentary parties forming the national government shall have a majority of one.
- (5) The Special Funds Accounts Committee constituted immediately following the general election shall serve for the term of that Parliament.

(f) *The text of the amended Standing Order 206 (Public Investments Committee) is as follows—*

Public Investments Committee

- 206.** (1) There shall be a select committee to be designated the Public Investments Committee.
- (2) The Public Investments Committee shall be responsible for the examination of the working of the public investments on the basis of their audited reports and accounts.
- (3) The Public Investments Committee shall consist of a Chairperson and not more than ***eighteen*** other members.
- (4) In the Membership of the Public Investments Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(5) The Public Investments Committee constituted immediately following the general elections shall serve for the term of that Parliament.

(6) The functions of the Public Investments Committee shall be to—

- (a) examine the reports and accounts of the public investments;
- (b) examine the reports, if any, of the Auditor General on the public investments; and
- (c) examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

(7) Despite paragraph (6), the Public Investments Committee shall not examine any of the following—

- (a) matters of major Government policy as distinct from business or commercial functions of the public investments;
- (b) matters of day-to-day administration; and
- (c) matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.

(g) *The text of the amended Standing Order 207 (Budget and Appropriations Committee) is as follows—*

Budget and Appropriations Committee

207. (1) There shall be a select Committee to be known as the Budget and Appropriations Committee.

(2) The Committee shall consist of a Chairperson, and not more than *twenty-six* other Members.

(3) The functions of the Committee shall be to—

- (a) investigate, inquire into and report on all matters related to coordination, control and monitoring of the national budget;

- (b) discuss and review the estimates and make recommendations to the House;
- (c) examine the Budget Policy Statement presented to the House;
- (d) examine Bills related to the national budget, including Appropriations Bills; and
- (e) evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.

(4) The Budget and Appropriations Committee constituted by the House immediately following the general election shall serve for a period of three calendar years and that constituted thereafter shall serve for the remainder of the parliamentary term.

(5) The Chairperson and eight members of the Budget and Appropriations Committee shall constitute a quorum.

(5A) The Committee may establish such subcommittees as it may consider necessary for the discharge of its functions including a subcommittee on legislative review.

(6) The Committee shall invite Chairpersons of all Departmental Committees to make presentations during the consideration of the budget.

(h) *The text of the amended Standing Order 208 (Procedure and House Rules Committee) is as follows—*

Procedure and House Rules Committee

- 208.** (1) There shall be a select committee to be known as the Procedure and House Rules Committee.
- (2) The committee shall comprise the Speaker as Chairperson, the Deputy Speaker, members of the Chairperson's Panel and not more than *seventeen* other members.
- (3) The Procedure and House Rules Committee shall consider and report on all matters relating to these Standing Orders.
- (4) The Procedure and House Rules Committee may propose amendments to these Standing Orders and any such amendments shall upon approval by the House, take effect at the time appointed by the House.

(5) The Procedure and House Rules Committee may propose rules for the orderly and effective conduct of committee business and any such rules, shall upon approval by the House, continue in force until amended or repealed by the House.

(6) Any rules approved under paragraph (5) shall be annexed to the Standing Orders and shall be binding upon Committees to the same extent as these Standing Orders.

(i) *The text of the amended Standing Order 209 (Committee on Implementation) is as follows—*

Committee on Implementation

209. (1) There shall be a select committee to be known as the Committee on Implementation.

(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) 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.

- (j) *The text of the amended Standing Order 210 (Committee on Delegated Legislation) is as follows—*

Committee on Delegated Legislation

210. (1) There shall be a select committee to be known as the Committee on Delegated Legislation.

(1A) The Committee shall consist of a Chairperson and not more than twenty-two other members.

(2) Whenever a statutory instrument is submitted to the Assembly pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the Assembly by the Chair of the relevant Departmental Committee, or any other member and shall thereafter stand referred to the Committee on Delegated Legislation.

(3) The Committee shall consider in respect of any statutory instrument whether it—

- (a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- (b) infringes on fundamental rights and freedoms of the public;
- (c) contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
- (d) contains imposition of taxation;
- (e) directly or indirectly bars the jurisdiction of the Courts;
- (f) gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- (g) involves expenditure from the Consolidated Fund or other public revenues;
- (h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;

- (i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
 - (j) appears to have had unjustifiable delay in its publication or laying before Parliament;
 - (k) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
 - (l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
 - (m) inappropriately delegates legislative powers;
 - (n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
 - (o) appears for any reason to infringe on the rule of law;
 - (p) inadequately subjects the exercise of legislative power to parliamentary scrutiny; and
 - (q) accords to any other reason that the Committee considers fit to examine.
- (4) If the Committee—
- (a) resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant state department or the authority that published the statutory instrument;
 - (b) does not accede to the statutory instrument, the Committee may recommend to the House that the Assembly resolves that all or any part of the statutory instrument be annulled and if the instrument—
 - (i) is not made under a legislation concerning counties and a resolution is passed by the Assembly within twenty days on which it next sits after the instrument laid before it under paragraph (2), that all or part of the statutory instrument be annulled, the instrument or part thereof shall henceforth stand annulled; and
 - (ii) is made under a legislation concerning counties, the Clerk shall, within seven days of the resolution

transmit a message to the Senate.

(5) The Clerk shall submit the resolution under paragraph (4)(b)(i) to the relevant state department or the authority that published the statutory instrument.

(6) In this Standing Order, “statutory instrument” means any rule, order, regulation, direction, form, tariff of costs or fees, letter patent, commission, warrant, proclamation, by-law, resolution, guideline or other instrument issued, made or established in the execution of a power conferred by or under an act of Parliament under which that statutory instrument or subsidiary legislation is expressly authorised to be issued.

(k) *The text of the amended Standing Order 212 (Committee on Regional Integration) is as follows—*

Committee on Regional Integration

212. (1) There shall be a select committee to be designated as the Committee on Regional Integration.

(2) Committee on Regional Integration shall—

- (a) enhance the role and involvement of the House in intensification and development of the integration process in the East African Community and the greater African region;
- (b) examine the records of all the relevant debates and resolutions of the meetings of the East African Legislative Assembly;
- (c) examine the Bills introduced in the East African Legislative Assembly and Acts of the East African Community;
- (d) examine the records of all the relevant debates and resolutions of the meetings of the Pan African Parliament, the African, Caribbean and Pacific-European Union Joint Parliamentary Assembly and other regional integration bodies; and
- (e) inquire into and examine any other matter relating to regional integration generally requiring action by the House.

(3) The Committee shall consist on a Chairperson and not more than twenty-two other members.

(l) *The text of the amended Standing Order 212B (Committee on Members' Services and Facilities) is as follows—*

Committee on Members' Services and Facilities

212B. (1) There shall be a select committee to be designated the Committee on Members' Services and Facilities.

(2) The Committee shall be responsible for—

(a) receiving and considering views of Members on the services and facilities provided for their benefit and well-being; and

(b) advising and reporting on all matters connected to the services and facilities provided for Members.

(3) The Committee shall consist of a Chairperson and not more than **fourteen** other members who shall be approved by the House at the commencement of every Session.

(m) *The text of the amended Standing Order 213 (Appointment of Joint Committees) is as follows—*

Appointment of Joint Committees

213. (1) The select committees to which this Standing Order refers shall be designated Joint Committees of Parliament.

(2) The Joint Committees of Parliament shall be as set out in the Fourth Schedule and shall comprise of a number of Members equal to the number of Senators appointed or to be appointed by the Senate to the Committee.

(3) The Members to serve on a Joint Committee shall be nominated by the Committee on Selection in consultation with parliamentary parties at the commencement of a Parliament.

(4) (Deleted).

(5) A Member appointed to serve on a joint committee at the commencement of a Parliament or at any other time during the term of a Parliament shall, unless the House otherwise resolves,

serve for the term of that Parliament, subject to Standing Order 176 (*Discharge of a Member from a Committee*).

(6) Unless a decision is reached by consensus, any vote to be taken in a joint committee shall be by separate Houses.

New Standing Orders

(n) *The new Standing Order 212C (Committee on National Cohesion and Equal Opportunity) is as follows—*

Committee on National Cohesion and Equal Opportunity

212C. (1) There shall be a select committee to be designated the Committee on National Cohesion and Equal Opportunity.

(2) The Committee shall consist of a Chairperson and not more than twenty-two other members.

(3) The Committee shall—

- (a) monitor and promote measures relating to policy and program initiatives in pursuit of peace and national cohesion;
- (b) investigate, inquire into and report on all matters relating to inter-community cohesion;
- (c) monitor and promote measures designed to enhance the equalization of opportunities and improvement in the quality of life and status of all persons, including persons who are marginalised on the basis of gender, age, disability, health status, ethnic, racial, cultural or religious background or affiliation or any other such ground;
- (d) investigate, inquire into and report on all matters relating to discrimination or marginalization of persons referred to under sub-paragraph (c);
- (e) make proposals to Parliament including legislative proposals for the protection, equalisation of opportunities and promotion of the welfare of the groups referred to under sub-paragraph (c); and
- (f) examine the activities and administration of all state departments and statutory bodies in so far as they relate to the rights and welfare of the persons referred to under sub-paragraph (c).

- (o) *The new Standing Order 212D (Committee on Parliamentary Broadcasting and Library) is as follows—*

Committee on Parliamentary Broadcasting and Library

- 212D.** (1) There shall be a select committee to be designated the Committee on Parliamentary Broadcasting and Library.
- (2) The Committee shall consist of a Chairperson and not more than twenty-two other members.
- (3) The Committee shall—
- (a) consider and report on all matters relating to broadcasting of the proceedings of the House;
 - (b) advise the House on matters related to public participation;
 - (c) make reports and recommendations to the House, including proposed legislation on matters relating to broadcasting of House proceedings;
 - (d) recommend to and advise the House on matters related to provision of library, publications and research services in Parliament, including improvement of the library and research services; and
 - (e) assist Members in utilizing the facilities provided by the library and research services, including use of information and communication technology.
- (4) The Committee shall not deal with matters related to procurement of items or services of the broadcast, the library or research services, or any matter falling within a function of the Parliamentary Service Commission.

Amendments to Schedules

- (p) *The text of the amended rule 9 of the Fourth Schedule (Joint Rules) is as follows—*

Joint Committees of Parliament

9. (1) (Deleted).

- (2) Every resolution by a House of Parliament for the establishment

of a joint committee not provided for in the Standing Orders shall be by a message to the other House, which shall state the object of such committee and the number of members to be appointed to the committee.

(3) A joint committee established under these Rules shall consist of at least five Members of each House.

(4) Prior to the commencement of any other business, every joint committee shall elect one of its members to be the Chairperson of the committee and one of its members to be the Vice-Chairperson of the committee.

(5) If the Chairperson and the Vice-Chairperson are absent at a meeting of the committee, the Members present shall appoint one of the members present to chair that meeting.

(6) Unless a decision is reached by consensus, any vote to be taken in a Joint Committee shall be by separate Houses.

(7) The report of a joint committee shall be tabled in each House for consideration.

(8) Without limiting the effect of anything contained in these Rules, the Standing Orders of the Senate and the Assembly relating to select committees shall be applied, but the Speakers of both Houses may jointly give directions in instances where the Orders of the two Houses are at variance.

Deletion of Standing Orders

(q) *Standing Order 214 (Joint Committee on National Cohesion and Equal Opportunity) is deleted.*

(r) *Standing Order 215 (Joint Committee on Parliamentary Broadcasting and Library) is deleted.*

Addendum to the National Assembly Standing Orders as at December 2017

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