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SNA
1/4/26*

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026
PUBLIC PETITIONS COMMITTEE

REPORT ON-

CONSIDERATION OF P/NO.14 of 2025 REGARDING PROPOSAL TO AMEND THE
CONSUMER PROTECTION ACT TO PROVIDE FOR THE IN DUPLUM RULE BY
MR. ALLEN WAIYAKI GICHUHI, EBS, SC, C.Arb



Directorate of Audit Appropriations &
General-Purpose Committees
Clerk's Chambers
Main Parliament Buildings
NAIROBI

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 01 APR 2026	DAY: Wed
MARCH, 2026	
TABLED BY:	<i>Hon. Muchangi Karumba, MP Chair, Public Petitions Com</i>
CLERK-AT-TABLE:	<i>Mado Miniam</i>

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CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on the Public Petition No. 1 P/No.14 of 2025 regarding proposal to amend the Consumer Protection Act to provide for the in Duplum Rule by Mr. Allen Waiyaki Gichuhi, EBS, SC, C.Arb.

The petition was presented to the House pursuant to Standing Order No. 225 (2) (a) by the Honourable Speaker on behalf of the Petitioner.

The Committee considered the Petition and observed that In-duplum rule is a legal principle that limits the amount of interest that can be recovered by a creditor. The core principle of the rule, is that interest stops running when the unpaid interest equals the outstanding principal amount. This prevents the accumulation of interest to an amount that is more than double the outstanding principal sum, protecting borrowers from excessive debt.

The Committee undertook this inquiry by engaging the petitioner, the Office of the Attorney General and the Central Bank of Kenya.

The Committee observed that the petition has merit and recommends the amendment of the Consumer Protection Act Cap. 501 to entrench the In-duplum Rule.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support, without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members and secretariat for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.

HON. MUCHANGI KAREMBA, CBS, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

PART ONE

1. PREFACE

1.1 Establishment and Mandate of the Committee

1. The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:
 - a) considering all public petitions tabled in the House;
 - b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
 - c) recommending whether the findings arising from consideration of a petition should be debated; and
 - d) advising the House and reporting on all public petitions committed to it.
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1.2 Committee Membership

2. The Public Petitions Committee was constituted in October 2022 and comprises the following Members:

Chairperson

Hon. Muchangi Karemba, CBS, M.P.
Runyenjes Constituency
United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency
**Wiper Democratic Movement-Kenya (WDM-
K)**

Hon. Ntwiga Patrick Munene, M.P.
Chuka Igambang'ombe Constituency
United Democratic Alliance (UDA)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency
United Democratic Alliance (UDA)

Hon. Beatrice Kadeveresia Elachi, M.P.
Dagoretti North Constituency
Orange Democratic Movement (ODM)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere South Constituency
Independent

Hon. Biego Paul Kibichy, M.P.
Chesumei
United Democratic Alliance (UDA)

Hon. Peter Irungu Kihungi, M.P.
Kangema Constituency
Maendeleo Chap Chap Party (MCCP)

Hon. John Bwire Okano, M.P.
Taveta Constituency
**Wiper Democratic Movement-Kenya (WDM-
K)**

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency
Jubilee Party (JP)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency
United Democratic Alliance (UDA)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency
**Wiper Democratic Movement-Kenya
(WDM-K)**

1.3 Committee Secretariat

3. The Public Petitions Committee is facilitated by the following members of the secretariat:

Lead Clerk

Mr. Victor Weke

Principal Clerk Assistant II

Ms. Miriam Modo

First Clerk Assistant

Ms. Kafuyai Wamae

Third Clerk Assistant

Ms. Nancy Akinyi

Research Officer III

Ms. Roselyne Njuki

Principal Serjeant-at-Arms

Mr. Pascal Valerian

Hansard Officer III

Ms. Felistus Muiya

Public Communication Officer

Mr. Benard Toroitich

Third Clerk Assistant

Mr. Clinton Sindiga

Legal Counsel II

Mr. Arkan Mumin

Research Officer III

Mr. Paul Shana

Serjeant-at-Arms

Mr. Collins Mahamba

Audio Officer III

Mr. Calvin Karungo

Media Relations Officer III

PART TWO

2. BACKGROUND OF THE PETITION

2.1 Introduction

4. Public Petition No. 14 of 2025 regarding proposal to amend the Consumer Protection Act to provide for the in duplum Rule was presented to the House by the Honourable Speaker on behalf of The Petitioner, Mr. Allen Waiyaki Gichuhi, EBS, SC, C. Arb. of Wamae & Allen Advocates,
5. The Petitioner calls for the House to consider amending the Consumer Protection Act, Cap. 501 to codify the in duplum rule.
6. The purpose of the rule is to protect borrowers from exploitation, prevent endless accumulation of interest, and encourage fair lending practices. Section 44A of the Banking Act codifies the in duplum rule, which provides that interest on a loan ceases to accrue once it equals the outstanding principal amount when a loan becomes non-performing.
7. Despite the existence of this law, many borrowers continue to suffer from banks, financial institutions, unscrupulous lenders and shylocks charging interest and penalties beyond the principal loan amount. These practices have resulted in violation of consumer rights under Article 46 of the Constitution and have exposed Kenyans to unfair deprivation of property.
8. The inconsistent judicial interpretations on the scope and timing of application of the rule, whether before or after restructuring a loan, or whether penalties count as “interest” further lead to harassment of borrowers by debt collectors even after repayment obligations have exceeded the statutory threshold. The lack of clarity and enforcement undermines public confidence in the financial sector and violates national values under Article 10, especially transparency, accountability, and social justice.
9. The issues in respect of which this Petition is raised are not pending before any Court of law or any constitutional or legal body.

2.2 Prayers

10. The Petitioner, therefore, prays that the National Assembly considers amending the Consumer Protection Act, Cap.501 to provide for when the in duplum rule takes effect; whether it applies to penalties, default charges, and other costs in addition to interest; uniform mechanisms for debt restructuring and recovery in compliance with the rule; redress mechanisms for borrowers who have been subjected to unlawful interest charges, including refunds or setoffs; and any other mechanisms that will secure borrowers from exploitation, enhance consumer protection, and uphold the Constitution.

PART THREE

3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 The Petitioner

The Petitioner appeared before the Committee on Thursday, 17th April 2025, and submitted as follows—

11. The Petition prays to the National Assembly to consider amendments to the Consumer Protection Act, 2012, to incorporate the in duplum rule, making it universally applicable to all credit providers and agreements in Kenya. The core of this Petition is a matter of constitutional equality, social justice, and consumer protection as enshrined in Article 46 and Article 10(2) of the Constitution.
12. The in duplum rule (from Latin, meaning "in double") is a long-standing legal principle of public policy. It is a common-sense safeguard designed to protect borrowers from being crushed by accumulating interest. In its simplest form, the rule dictates that interest on a debt must stop running when the total accrued interest equals the unpaid principal amount.
13. For example, if a citizen borrows a principal of Ksh. 10,000/= the total interest that can ever be charged on this loan (while in default) cannot and should not exceed Ksh. 10,000/=. This caps the lender's total claim, preventing a Ksh 10,000/= loan from spiralling into a Ksh. 100,000/= debt. The rule thus restricts lenders from charging more interest than double the principal amount outstanding at the time of default.;
14. The key proposals are:
 - a) Universal Application: The rule shall apply to all credit agreements in Kenya, regardless of the lender. This includes banks, microfinance institutions, SACCOs, digital/mobile lenders, and informal lenders ("shylocks").
 - b) The "Cap": The maximum amount a lender can recover from a non-performing loan is the sum of:
 - i. The principal amount owing when the loan became non-performing;
 - ii. Accrued interest; and
 - iii. Lawful recovery expenses.
 - c) The Core Protection: The total sum of the interest in (ii) and expenses in (iii) above combined may not, in aggregate, exceed the principal amount in (i).
 - d) Clarity on Operation: The amendment clarifies that interest stops running and accruing when it equals the unpaid principal. If the borrower makes a partial payment that reduces the outstanding interest, interest can begin to run again, but only until it once again reaches the ceiling of the unpaid principal.

15. Currently, the in duplum rule is only clearly codified in Section 44A of the Banking Act. This provision offers vital protection to bank customers by limiting their exposure to spiraling interest. However, this law only applies to institutions licensed under the Banking Act. This creates a massive legislative gap. The vast majority of Kenyans, particularly those in the "bottom-up" economy (MSMEs, "hustlers"), do not get their primary credit from formal banks. They are forced to rely on:

- a) Digital and Mobile Lenders
- b) Microfinance Institutions
- c) SACCOs
- d) Unregulated "Shylocks"

None of these entities are bound by Section 44A of the Banking Act. This exclusion is the root of the problem.

16. The current legal framework is unjust and inequitable. It provides protection for citizens who borrow from banks while leaving the most vulnerable, the "hustlers," the MSMEs, the financially distressed, at the mercy of predatory lenders.

17. This Petition is not radical. It is a simple plea for fairness and equality.

- a) The Constitution (Article 46) demands consumer protection. Article 10(2) elevates equity to an express constitutional standard/value. Equity abhors oppression and unjust enrichment.
- b) The Judiciary (Mugure v. HELB) has confirmed the in duplum rule is a universal public policy.
- c) 3. International Best Practice (South Africa's NCA) provides a clear and proven legislative blueprint.

18. By amending the Consumer Protection Act, this discriminatory loophole will be closed, end the widespread exploitation of the citizens/borrowers, and enact a fair, just, and constitutional framework for all borrowers in the Republic of Kenya.

3.2 The Attorney General

The Office of the Attorney General vide letter reference AG/LDD/685/2/4 Submitted as follows;

19. The In duplum rule is a legal principle that limits the amount of interest that can be recovered by a creditor. The core principle of the rule, is that interest stops running when the unpaid interest equals the outstanding principal amount. This prevents the accumulation of interest to an amount that is more than double the outstanding principal sum, protecting borrowers from excessive debt.

20. According to section 44A of the Banking Act, a loan becomes non-performing (where the borrower does not service the loan for at least 90 days), the lender may not recover from the borrower more than the sum of:

- a) the principal owing when the loan became non-performing;
- b) accrued interest on that principal, not exceeding the principal amount; and

- c) recovery expenses reasonably incurred in pursuing the debt.
21. This statutory scope has given rise to debate and litigation on whether the in duplum protection only benefits bank borrowers or whether it extends to all lending arrangements outside the Banking Act such as loans by SACCOS, microfinance institutions, digital lenders, hire purchase arrangements and other lenders.
 22. Kenyan courts have grappled with the issue of whether the in duplum rule applies to non-regulated lenders and other institutional lenders that do not qualify as financial institutions under the Banking Act. There have been divergent opinions on the issue;
In *Anne J. Mugure & 2 Others v Higher Education (Petition No. E002 of 2021)* KLR the court declared that the in duplum rule applies to all persons involved in the lending business. The petitioners were beneficiaries of the Higher Education Loans Board (HELB) loan to finance their university studies.
 23. They argued that HELB was charging them exorbitant interest rates and penalties which went beyond the principal amount borrowed hence a violation to their constitutional rights. The Petitioners prayed that the court declare that the rates and penalties charged violated their constitutional rights and the in duplum rule. HELB argued that the in duplum rule does not apply to them and that the Higher Education Loans Board Act allowed for the imposition of penalties for default and late payment of loans on top of interest.
 24. The court ruled that that the interests and penalties imposed by HELB that exceeded the principal amounts violated the in duplum rule and the Petitioners' constitutional rights. The court also stated that the in duplum rule would apply to institutions in the business of lending money, as it applies to banks.
 36. In contrast however, in *Momentum Credit Limited v Kabuiya (Civil Appeal E035 of 2022)* KLR, the High Court ruled that section 44A of the Banking Act which enshrines the in duplum rule, only applies to financial institutions as defined under the Banking Act. This limits the application of the rule to formal loans issued by banks and financial institutions which fall within the definition of banks under the Banking Act. In this particular case, it was held that the in duplum rule does not apply to microfinance institutions.
 37. In *Mbobu & another v Hypac Investments Ltd (Commercial Suit E144 of 2023)* the High Court held that the in duplum rule also applies to unregistered lenders. The matter concerned a loan of 11 million advanced to the borrower. The borrower had repaid 24.5 million which is more than double the loan but the lender still demanded an additional Ksh. 69.4 million, claiming compounded interest and penalties. The court ruled that that the interest and penalty clauses were 'manifestly oppressive' and contrary to public policy. The court declared the debt fully settled by the Ksh. 24.5 million already repaid. It ordered the lender to discharge and retransfer the property title that Mbobu had used as security to his estate within 30 days.
 38. The uncertainty concerning the rule's application beyond financial institutions licensed under the Banking Act, highlighted in the cases cited above, demonstrates a clear need for legislative clarification.

39. There is need to balance contractual freedom against the necessity of consumer protection. Legislation should explicitly extend in duplum protections beyond banks, creating uniformity and certainty. The in duplum rule should offer protection to all borrowers and grant equal relief from oppressive interest rates regardless of the lender's identity. This would enhance consumer protection across the board and potentially encourage more borrowing from informal sources with less fear of excessive interest accumulation. Providing for the in duplum rule in the Consumer Protection Act will ensure that the rule applies to all lenders irrespective of the legislative framework that governs them.

3.3 The Central Bank of Kenya

The Central Bank of Kenya vide a letter dated 10th December 2025 submitted as follows;

40. The CBK legal and regulatory framework has, in large measure, entrenched the In Duplum rule.
41. Section 44 A of the Banking Act provides that an institution shall be limited in what it may recover from a debtor with respect to a non-performing loan to the maximum amount.
42. The maximum amount shall include the principal owing when the loan becomes non-performing, interest, in accordance with the contract between the debtor and the institution, not exceeding the principal owing when the loan becomes non-performing and expenses incurred in the recovery of any amounts owed by the debtor.
43. In effect, therefore, the lender cannot recover at any one given time an amount that is more than double the outstanding principal. The amendment was brought about through the Banking (Amendment) Act, 2006.
44. Similar provisions have been replicated in other regulatory frameworks under the CBK Regulation 19 of the CBK (Digital Credit Providers) Regulations, 2022 which provides that 'A digital credit provider shall be limited in what it may recover from a customer with respect to a non-performing loan to the maximum amount'.
45. The maximum amount shall include the principal owing when the loan becomes non-performing, interest, in accordance with the contract between the debtor and the institution, not exceeding the principal owing when the loan becomes non performing and expenses incurred in the recovery of any amounts owed by the debtor.
46. Clause 56 of the Microfinance Bill, 2025, replicates this. It provides that 'An institution shall not recover from a debtor, with respect to a non-performing loan, more than the maximum amount'.
47. The maximum amount shall include the principal owing when the loan becomes non-performing, interest, in accordance with the contract between the debtor and the institution, not exceeding the principal owing when the loan becomes non performing and expenses incurred in the recovery of any amounts owed by the debtor.

48. Once the Microfinance Bill, 2025, is enacted, this will afford protection to borrowers under this framework. In large measure, it improves upon Regulation 48 of the Microfinance (Deposit Taking Microfinance Institutions) Regulations which states that Where a loan is classified as non-performing every institution shall suspend any interest on such loans and advances and the interest in suspense shall not be treated as income ,all interest in suspense shall be taken into account in the computation of provisions for non-performing accounts and reverse any interest on non-performing loans or credit facilities accrued into income but uncollected and credit into the interest in suspense account until paid in cash by the borrower.
 49. It further provides that every institution shall ensure that a non-performing loan or credit facility is returned to accrual basis only when all outstanding dues and unpaid obligations have been paid up to date.
 50. Additionally, every Institution shall ensure that all interest on non-performing loan or credit facilities previously accrued into income but uncollected is reversed and credited into the interest in suspense account until paid in cash by the borrower.
 51. Institutions that contravenes this regulation will liable to such administrative sanction as may be prescribed by the Central Bank.
 52. In the circumstances, the Central Bank of Kenya is amenable to the proposals in the petition to anchor the In Duplum rule in the Consumer Protection Act.
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PART FOUR

4. COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner, The Office of the Attorney General and the Central Bank of Kenya, the Committee observes that—

53. The In duplum rule is a legal principle that limits the amount of interest that can be recovered by a creditor. The core principle of the rule, is that interest stops running when the unpaid interest equals the outstanding principal- amount. This prevents the accumulation of interest to an amount that is more than double the outstanding principal sum, protecting borrowers from excessive debt.
54. This statutory scope has given rise to debate and litigation on whether the in duplum protection only benefits bank borrowers or whether it extends to all lending arrangements outside the Banking Act such as loans by SACCOS, microfinance institutions, digital lenders, hire purchase arrangements and other lenders.
55. The uncertainty concerning the rule's application beyond financial institutions licensed under the Banking Act, highlighted in different cases cited, demonstrates a clear need for legislative clarification.

PART FIVE

5. COMMITTEE RECOMMENDATIONS

56. Pursuant to the provisions of Standing Order 227, the Committee responds to the Petition as follows—

- i. On the prayer that that the National Assembly considers amending the Consumer Protection Act, Cap.501 to provide for when the in duplum rule takes effect; whether it applies to penalties, default charges, and other costs in addition to interest; uniform mechanisms for debt restructuring and recovery in compliance with the rule; redress mechanisms for borrowers who have been subjected to unlawful interest charges, including refunds or setoffs; and any other mechanisms that will secure borrowers from exploitation, enhance consumer protection, and uphold the Constitution; **the Committee recommends that the Consumer Protection Act, Cap 501, be amended to entrench the In Duplum Rule, as per Annexure 4 of this report.**
- ii. **The Committee thus recommends that this report be debated by the House as per Standing Order 208A (c), and in line with Standing Order 114A (b).**

Signed: _____



Date: _____

01/04/2020

HON. MUCHANGI KAREMBA, CBS, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

ANNEXURES

Annex 1: The Adoption List

Annex 2: Public Petition No. 14 of 2025 regarding proposal to amend the Consumer Protection Act to provide for the In Duplum Rule

Annex 3: Minutes of proceedings

Annex 4: Draft Proposal to amend the Consumer Protection Act, Cap 501, to entrench the In Duplum Rule



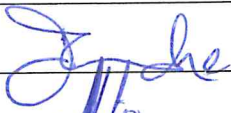

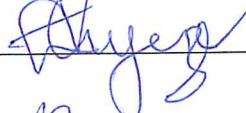
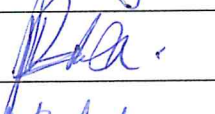
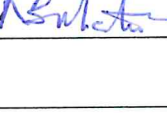
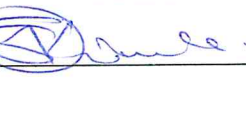

PUBLIC PETITIONS COMMITTEE

ADOPTION LIST

- (i) **Consideration and adoption of the Report on Public Petition No. 14 of 2025 by Mr. Allen Waiyaki Gichuhi, EBS, SC, C.Arb. regarding a proposal to amend the Consumer Protection Act to provide for the in Duplum Rule**

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 17/3/2026.

	HON. MEMBER	SIGNATURE
1.	Hon. Muchangi Karemba, CBS, M.P. (Chairperson)	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P. (Vice Chairperson)	
3.	Hon. Patrick Makau King'ola, M.P.	
4.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	
5.	Hon. Joshua Chepyegon Kandie, M.P.	
6.	Hon. Maisori Marwa Kitayama, M.P.	
7.	Hon. Edith Vethi Nyenze, M.P.	
8.	Hon. Patrick Ntwiga Munene, M.P.	
9.	Hon. Paul Biego Kibichy, M.P.	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	
11.	Hon. Peter Mbogho Shake, M.P.	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	
13.	Hon. John Bwire Okano, M.P.	
14.	Hon. Sloya Clement Logova, M.P.	
15.	Hon. Peter Irungu Kihungi, M.P.	