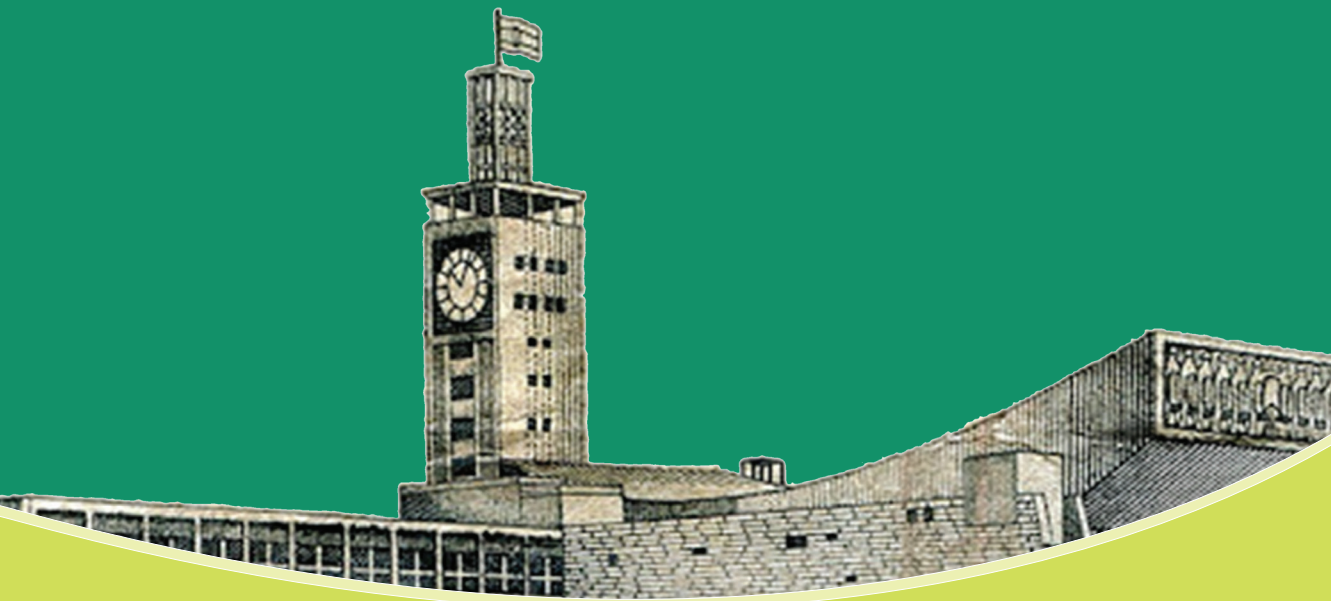




Parliament of Kenya

The National Assembly

# A History of the National Assembly Standing Orders



**Fact Sheet**

No. 8



# A History of the National Assembly Standing Orders

*FactSheet No.8*

## **A History of the National Assembly Standing Orders**

*FactSheet 8: A History of the National Assembly Standing Orders*

### **Published by:**

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

Tel: +254 20 221291, 2848000

Email: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

[www.parliament.go.ke](http://www.parliament.go.ke)

© The National Assembly of Kenya 2017

### **Compiled by:**

The National Assembly Taskforce on Factsheets, Online Resources and Webcasting  
of Proceedings

**Design & Layout:** National Council for Law Reporting



## Acknowledgements

This Factsheet on **A History of the National Assembly Standing Orders** is part of the Kenya National Assembly Factsheets Series that are supposed to enhance public understanding, awareness and knowledge of the work of the Assembly and its operations. It is intended to serve as easy guide for ready reference by Members of Parliament, staff and the general public. The information contained here is not exhaustive and readers are advised to refer to the original sources for further information.

This work is a product of concerted efforts of all the Directorates and Departments of the National Assembly, and the Parliamentary Joint Services. Special thanks go to the Members of the National Assembly Taskforce on Factsheets, Online Resources and Webcasting of Proceedings, namely, Mr. Kipkemoi arap Kirui (Team Leader), Mr. Emejen Lonyuko, Mr. Robert Nyaga, Mr. Denis Abisai, Mr. Stephen Mutungi, Mr. Bonnie Mathooko, Maj. (Rtd.) Bernard Masinde, Mr. Enock Bosire, and Ms. Josephine Karani. Special thanks also go to the very dedicated members of the Secretariat of the Taskforce Mr. Salem Lorot (Head of the Secretariat), Mr. Samuel Kalama, Ms. Anne Shibuko, Mr. Benson Inzofu, Mr. Finlay Muriuki, Ms. Doreen Karani, Mr. Charles Atamba and Ms. Rabeca Munyao.



# FactSheet

08

## A History of the National Assembly Standing Orders

### Introduction

The Standing Orders (or Rules of Procedure) have been in use since the inception of the Legislative Council (Legco), a precursor of the National Assembly. Since the formative years of the colonial administration which had a fused legislative and executive functions under the Governor General, the rules of procedure were originated and reviewed at the behest of the Executive and, for a long time, introduced for review and adoption by the Legco and later by the National Assembly as an Executive-sponsored *Sessional Paper*. Constant review of Standing Orders occasioned gradual re-designing of the legislature and its committees, borrowing best practices from the mother parliament in the United Kingdom during the transition under the speakerships of Rtd. Judge William Horne and Sir Humphrey Slade (1948-1970).

### First Parliament (1963-1967)

At independence, the initial changes to the Standing Orders were made in line with the independence constitution that set up a bicameral legislature and provincial (regional) legislatures popularly known as *majimbo*. They were introduced to the House in the form of Sessional Papers cited below.

#### (a) Sessional Paper No. 6 of 1964

Sessional Paper No. 6 of 1964 introduced a provided for the new role of the President as Head of State, Head of Government and a Member of the House of Representatives, and to provide for the Head of State to open and address Parliament. It also provided for a Chair of State for the President in the Chamber. The President could address a joint sitting of the Senate and the House of Representatives from the Speaker's Chair. The House was expected to stand in

silence as the President entered or left the Chamber accompanied by an aide-de-camp.

**(b) Sessional Paper No. 8 of 1965**

The Standing Orders were amended to redefine 'Minister' to include the President, Vice President and the Ministers, the Attorney General, Assistant Ministers and any other person who held any such office. The ter, '*Governor*' was deleted and substituted with the '*President*'. Amendments to Standing Orders also changed the days of consideration of Private Members' Motions. Private Members' Motions which were ordinarily considered on Thursday afternoons were moved to Friday mornings. It had become a challenge that sittings on Fridays adjourned due to lack of quorum. The Sessional Committee was of the view that having Private Members' Business on this day would compel them to attend the sittings. Standing Order 62 substituted '*Her Majesty*' with '*President*' since Kenya was an independent Republic that no longer owed allegiance to the Queen.

The Constitution of Kenya (Amendment) (No. 4) Act No. 19 of 1966 effectively disbanded the Senate converting the 41 Senators into Members of the House of Representatives and creating new constituencies to accommodate them. This altered the membership of the National Assembly.

**(c) Sessional Paper No. 12 of 1965**

Sessional Paper No. 12 of 1965 sought to ensure business of the House was conducted and dispatched more efficiently. The title of Parliamentary Secretary was re-designated as Assistant Minister as per the new constitution. Standing Orders were amended to provide that on any day where more than twelve questions were due to be placed on the Order Paper, and if the Speaker was of the opinion that the number of that question succeeding twelve cannot be spread over the next three sitting days without the questions on one of the days exceeding twelve, each Member would be limited equally to such number of questions on the Order Paper as would reduce the total number of questions to twelve and receive forthwith a written reply to all other questions which were thus excluded from the Order Paper.

The purpose of the amendment was to speed up the business of the House by enabling the Speaker to limit his or her discretion on the number of questions to twelve per day, and to direct the questions beyond that number to be replied to in writing rather than orally. The new Standing Orders extended the number of hours for considering Committee of Supply from one hour to three hours. Amendments were also introduced to provide that Party Motions would take precedence over other Motions moved by individual Members. The Standing Orders also provided for changes in the seating arrangement in the Chamber by having all seats in the front benches of the chamber reserved for the exclusive use of Ministers.

**(d) Reports of Select Committee reviewing amendments to Standing Orders**

On 6th December 1967, the House adopted both the interim report dated the 19th July 1967 and the First Schedule of the Final Report of the Select Committee Reviewing Standing Orders dated 20th November 1967. Some of the amendments included deleting provisions making reference to the Senate since it had ceased



to exist, and excluded reference to certain sections of the Constitution which no longer existed. The Standing Orders also provided for regularization of an Acting Deputy Speaker/Temporary Speaker who would act as presiding officer in the absence of Speaker and the Deputy Speaker. The Standing Orders also provided for questions by Private Notice and the time the questions would be taken. The number of questions to be listed on the Order Paper were increased from 12 to 15. It was provided that a question could not repeat in substance any question already answered in the current session. Grounds in which the Speaker could reject a Motion were also listed and, too, the manner in which the renewal of Motions which had already been debated would occur. A new Standing Order provided for Motions without Notice.

The Presidency was held in high esteem during this period. The Standing Orders were amended to provide for permission for a Minister to use the name of the President as authority of what he or she was saying. Members who were not Ministers would only make assertions to the President upon reference to President's recorded speeches. Members could not adversely mention or use the name of the President.

Standing Order 78 proposed a definition of 'disorderly conduct' as *"creating actual disorder, curtailing unnecessary interjections which are intended to stop or deter a Member from exercising his or her right to speak in the House, knowingly raising a false or fraudulent point of order"*.

The Standing Order further gave the Members the right to initiate the process of naming a Member. A Member would invite the Speaker to name another Member for grossly disorderly conduct, but the decision whether or not to do so would lie with the Speaker.

If a Member was suspended for a certain number of sitting days and there was a break in-between such as a weekend, the Member would be excluded from the precincts during the weekend as well. If the House went into recess before the Member had completed his or her suspension, the punishment would operate again from the time the House started sitting until he completed his or her days. The Member would, except during the recess, forfeit his or her right to access the precincts. There was a provision for a Member taking responsibility for the accuracy of his or her facts, and his or her liability to be required to substantiate. The amendments also proposed Mondays as an additional sitting day.

It is worth noting that the Constitution of Kenya (Amendment) (No. 2) Act No. 16 of 1968 transferred the powers of electing the President from Members of the House of Representatives to the people.

## **SECOND PARLIAMENT (1970-1974)**

Sessional Paper No. 7 of 1974 had been laid during the Second Parliament but had not been adopted by the end of that Parliament. (See below)

## **THIRD PARLIAMENT (1974-1979)**

### **Sessional Paper No. 10 of 1979**

The Sessional Committee decided to adopt the Report of its predecessor's Sessional

Paper No. 7 of 1974 which had been introduced in the Second Parliament (1970-1974) as a basis for its deliberations. As this was done at the end of the Third Parliament, the changes occasioned by the Standing Orders would become operational during the Fourth Parliament. The changes were as follows: -

**(a) Sitting Hours**

Standing Order No. 17(1) on sitting hours of the House was amended to alter the sitting hours. The House had been sitting in the afternoons of Tuesdays, Wednesdays and Thursdays and morning hours of Fridays during the Third Parliament. It was decided that the House would be sitting twice on Wednesdays from the beginning of the Fourth Parliament. Friday sittings were removed.

**(b) Motions**

Standing Order 43 was amended to provide for a Member who has a Motion standing in his or her name to authorise in writing some other Member to move that Motion in his or her stead.

**(c) Language**

An amendment to Standing Order 62 permitted Kiswahili to be used as a language of debate.

**(d) Select Committees**

The Committee system during this time lacked structures as Committees were still few and at the same time Parliament was understaffed. This Sessional Paper brought about a defining step in redefining Parliament's committee system in a bid to ensure that the House continued to fulfil its constitutional mandate. Another priority at the time was the reorganization of the Clerk's Department to respond to emerging needs of the House.

Standing Order 148 created new permanent committees of the House as follows:

- **Public Undertakings Committee:** for the examination of the working of the public undertakings.
- **Library Committee:** to consider and advise on matters concerning the Library. The Committee would comprise of the Deputy Speaker as the chair and not more than ten other Members.
- **Speaker's Committee:** to consider, advise and report on all matters connected with the welfare of Members of the National Assembly and its staff. The Committee would comprise the Speaker as the Chair, the Minister for the time being responsible for Finance, the Minister responsible for Public Administration and not more than ten other Members nominated by the Sessional Committee at the commencement of every session.
- **General Purpose Committees (GPCs)** whose function would be to investigate and inquire into the activities and administration of the Ministries or Departments assigned to them, and such investigation and inquiry may extend to proposals for legislation. This was a precursor to the current departmental committees.

The list of GPCs is given below:

NO.	GENERAL PURPOSE COMMITTEE
A	Committee on Agriculture, Lands, Natural Resources and Environment
B	Committee on Education, Health, Rural and Social Development
C	Committee on Power, Communication, Transport and Works
D	Committee on Housing, Labour and Employment
E	Committee on Defence, Conventions, Treaties, Agreements and Foreign Relations
F	Committee on Local Administration, Interior, Information and Justice
G	Committee on Finance, Economic Planning, Trade and Industries

Standing Order No. 152(1) introduced for the first time the **Implementation Committee** following a longstanding resolution of the House on 7th December 1973 whose function would be to scrutinize the decisions of the House and the undertakings given by the Government on the floor of the House and report on whether or not such decisions and undertakings had been implemented. The Select Committee would be appointed by the Sessional Committee at the commencement of every Session.

Standing Order No. 153(1) introduced the **Standing Orders Committee** which would from time to time consider and report on all matters relating to Standing Orders. The Committee would comprise of Speaker as the Chair, Deputy Speaker and not more than ten other Members appointed by the Sessional Committee at the commencement of every Session.

Standing Order No. 161 made provision for Select Committees which would continue working even when Parliament was prorogued. They included:

- a) The Public Accounts Committee
- b) The Public Undertakings Committee
- c) The Speaker's Committee
- d) The Implementation Committee
- e) The Catering Committee (as constituted by a special resolution of the House on 14th March, 1967)

#### FOURTH PARLIAMENT (1979-1983)

On 17th July 1980, then Vice President and Leader of Government Business Mwai Kibaki introduced a short Sessional Paper proposing the adoption of a Report of the Standing Committee to expunge the Implementation Committee from the Standing Orders. The amendment passed in minutes.

The most significant amendment to the Constitution during the Fourth Parliament was the Constitution of Kenya (Amendment) Act No. 7 of 1982 which introduced the famous Section 2A that transformed Kenya from a *de facto* one-party state into a *de jure* one party state. This in effect, outlawed the formation of opposition political parties, giving the ruling party, KANU, a monopoly.

#### FIFTH PARLIAMENT (1983-1988)

There were no changes to the Standing Orders during this period.

## **SIXTH PARLIAMENT (1988-1992)**

The Constitution of Kenya (Amendment) Act No. 12 of 1991 repealed Section 2A of the Constitution which had converted Kenya into a one-party State in 1982. This opened a new opportunity for the legislature by ending the *de jure* one-party rule in Kenya thereby making Kenya a multi-party state again. Consequently, the Standing Orders were amended to provide for the introduction of an official opposition party.

However, other parties in the opposition were not officially recognized. The need to recognize other parliamentary parties other than the official opposition party slowly gained acceptance.

## **SEVENTH PARLIAMENT (1993-1997)**

### **Sessional Paper No. 2 of 1996**

Sessional Paper No. 2 of 1996 sought to amend Standing Order 147 and 148 upon request by the Leader of Government Business in order to provide for the membership of both the Public Accounts and Public Investments Committees to be on the basis of proportional representation of parliamentary parties; a practice prevalent in other Commonwealth Parliaments. The matter was highly contentious such that some Members breached the rules of procedure and divulged Committee deliberations to the press. The Paper also sought to amend Standing Order 172 to provide for front seats on the left of the Speaker to be reserved for the leadership of the Official Opposition Party. The Sessional Paper was never adopted by the House despite being debated a number of times.

### **Sessional Paper No. 8 of 1997**

Sessional Paper No. 8 of 1997 sought to, among other things, adopt the recommendations in the Sessional Paper No. 2 of 1996. The amendments were as follows: -

- Standing Order 20A introduced Members' half hour Statements which provided for the Speaker to interrupt business of the House at 6.30 pm to allow Members to make Statements of their choice for a period not exceeding two minutes during the half-hour extension of sittings on Thursdays. It was envisaged that this provision would significantly reduce the practice of raising points of order after Question Time.
- Standing Order 55 modified the voting process in division. Standing Order 65 allowed for reading of speeches in the event that the Speaker is satisfied that it was necessary for statement of facts.
- Standing Order 81 introduced Limitation of Debate by setting the maximum time for Members contributing in debates on Public Bills, Private Bills, Sessional Papers and Reports of Committees.
- Standing Order 101A introduced the committal of Bills to Departmental Committees after First Reading.
- Standing Order 145 was amended to rename the Sessional Committee as the House Business Committee.
- Standing Order 146 that provided for the Estimates Committee was deleted.
- Standing Order 151 on General Purpose Committees was renamed Departmental Committees focusing on subjects other than state departments and ministries.
- Standing Order 147 and 148 was reviewed to provide for the membership of

Public Accounts Committee and Public Investments Committee. The membership of the two Committees was reduced from 13 to 11 with 6 from the Government and 5 from the Opposition. The Chairpersons of the two Committees would be from the opposition party.

- Standing Order 151A introduced the Liaison Committee composed of Chairpersons of the Departmental Committees to coordinate and manage the increasing number of committees. It was to be chaired by the Deputy Speaker.
- Standing Order 172 introduced reservation of seats for leaders of opposition parties and the shadow cabinet of the Official Opposition Party on the front benches of the Chamber to the left of the Speaker.
- Standing Order 173 provided that Members traveling outside Kenya would give details of physical address and contacts to enable the Speaker keep in touch and avail any form of assistance.

The departmental committees are given below:

NO.	DEPARTMENTAL COMMITTEE
A	Agriculture, Lands and Natural Resources
B	Energy, Communications and Public Works
C	Education, Research and Technology
D	Health, Housing Labour and Social Welfare
E	Administration, National Security and Local Authorities
F	Finance, Planning and Trade
G	Administration of Justice and Legal Affairs
H	Defence and Foreign Affairs

## EIGHTH PARLIAMENT (1998-2002)

During the 8th Parliament, the clamour for constitutional reforms had reached its peak. At the same time, there was renewed vigour to also comprehensively redo the rules of procedure of the House. Indeed, there was almost unanimous agreement from across the political divide that something urgent needed to be done to the Standing Orders, which were viewed as mostly inhibitive as opposed to being facilitative to Members. The focus of the proposed changes was mostly on demystifying Parliament, expanding the independence and autonomy of Parliament, allowing gender receptive rules, invigorating the Committees, opening Chamber proceedings and Committees to the public, including allowing live broadcasting of proceedings and institutionalizing multi-party democracy.

The House established an *ad hoc* committee, led by the then Member for Cherangany Constituency, the Hon. Kipruto arap Kirwa to study other parliamentary jurisdictions and propose necessary infrastructural changes and procedural provisions that would facilitate broadcast of House proceedings. The Committee tabled a Report which was unanimously adopted by the House. However, its implementation did not take place until the 10th Parliament.

At that time, there was a general expectation that a new Constitution would be in place before the end of the term of the 8th Parliament. In this regard, the much-needed comprehensive review of the rules of procedure of the House was deferred to await the enactment of a new Constitution. By the time the House was dissolved

on 25th October 2002, the elusive new constitution was still a mirage, and so was the review of the Standing Orders. However, there was a lot of research, memoranda and proposals that had been received from the public, Members, political parties and officers of the House that were compiled into a Draft Report.

It is important to note that during the Eighth Parliament, the Constitution was amended to set up the Parliamentary Service Commission. Further, the Parliamentary Service Act and general administrative changes created a greater autonomy for the institution of parliament from the Executive.

### **THE NINTH PARLIAMENT (2003-2007)**

The Draft Report of the 8th Parliament was to become the primary document for the comprehensive review of the Standing Orders that commenced in the 9th Parliament. On 20th June 2006, a sub-committee of the Standing Orders Committee was established led by then Deputy Speaker Hon. David Musila and comprising of Hon. Paul Muite, Hon. Otieno Kajwang, Hon. Mutula Kilonzo, Hon. Nyagah Wambora, nominated Members Hon. Njoki Ndungu and Hon. (Dr.) Esther Keino. The sub-committee received memoranda from individual Members as well as political parties through the then Government Whip, Hon. Norman Nyagah and the Opposition Party Whip Hon. Justin Muturi. It should be noted that this was the first time that proposed amendments were initiated and driven by Members of the House as opposed to the Executive. Notable of these amendments was the review of the process of introducing Bills by private members by removing the cumbersome requirement of *a motion seeking leave* to introduce a Bill.

Amendments were also considered and texts developed on a number of fundamental aspects such as -

- allowing recall of the House during recess by the opposition, so long as they could garner signatures of a majority of the Members;
- opening up of Committees and the House to the public;
- recognizing visiting dignitaries and allowing them to address the House;
- petitioning Parliament;
- insertion of Swahili prayer in the rules of procedure;
- introducing requests for statements to Ministers;
- limiting speaking time on debate on bills, committee reports, Sessional papers and bills, which were hitherto unlimited; and
- modest changes on the budgeting process to enhance the role of Parliament.

The rules of procedure were also amended to simplify the language used, for instance, from *"that Mr. Speaker doth leave the chair"* to *"that Mr. Speaker does leave the chair"* or *"mutatis mutandis"* to *"with necessary modification"*, etc. Further, the language was also made more gender-responsive - from use of the phrase **"he"** to **"he or she"** and even allowing the lady members to carry hand-bags into the House, for the first time. The Report had however not been tabled by the time the House was dissolved on Monday 22nd October 2007. Review of the Standing Orders was therefore not concluded until the 10th Parliament.



## **THE TENTH PARLIAMENT (2008-2013)**

The first amendment of the Standing Orders in the 10th Parliament was intended to incorporate the letter and spirit of the amended Constitution to include the National Accord and to provide for the creation of a coalition government under the accord. Under the leadership of the then Speaker Hon. Kenneth Marende the Standing Orders Committee, in its first meeting on 30th May 2008, appointed a six Member sub-committee comprising of then Deputy Speaker and led by Members of the Speaker's Panel Hon. Ekwee Ethuro, Gitobu Imanyara and Prof. Margaret Kamar (who was later replaced by Hon. (Dr) Joyce Laboso) to consider progress made on the review of the Standing Orders during the Ninth Parliament, receive submissions and submit a report to the Committee. The Standing Orders Committee enriched the Report prepared during the 9th Parliament by including rules on Parliamentary Broadcasting, and opening House Plenary sessions and Parliamentary Committees to the public, recognition of whips, amongst other measures.

There was also the introduction of Prime Minister's Time where the Prime Minister would make a Statement or questions would be put to him relating to matters of Government policy or the general performance of the Government and government agencies. The budgeting process was also revised. The House Business Committee expanded to not more than twenty-one Members from 11 and provided for inclusion of Party whips. The quorum of Public Investments Committee and Public Accounts Committee was reduced from 5 to 3 Members. Six additional Committees were formed as follows: -

- Local Authorities and Funds Accounts Committee (LAFAC);
- Budget Committee;
- Committee on Delegated Legislation;
- Committee on Implementation; and
- Committee on Equal Opportunity

The number of Departmental Committees was increased from 8 to 12 by splitting some of the Committees with wider mandates e.g. the Health, Housing, Labour, Sports and Social Welfare. The ultimate adoption of the report on 8th December 2010 marked the conclusion of the comprehensive review of the Standing Orders.

The Procedure and House Rules Committee jointly with the Committee of Experts analyzed the impact of the proposed Constitution on the workings of Parliament with particular focus on vetting processes including the establishment of a Committee on Appointments, removal of persons from office, budgeting processes, inter-Chamber relations, phasing out of Question Time, among other issues. The Report was tabled in January 2013, a few weeks before elections.

## **THE ELEVENTH PARLIAMENT (2013-2017)**

### **a) First Review of Standing Orders (2013 – 2014)**

#### **Changes in composition and membership of select committees**

During the 11th Parliament, several amendments to the Standing Orders have been occasioned by, among other things, the need to expand the membership

of select committees and provide for election of Chairpersons and Vice Chairpersons and quorum of committees. Nine members of a committee were to constitute a quorum. It was provided that a select committee shall consist of an odd number of members, being not less than seventeen and not more than twenty-nine. These amendments were passed by the House on April 25, 2013. Prior to these amendments, the membership of a select committee was capped at eleven members.

The membership of the Public Accounts Committee was expanded to consist of a Chairperson and a Vice Chairperson who are members elected by the Committee from amongst its members and nominated from the minority Party or Coalition of parties, and not more than twenty-six other members. Interestingly, it was also provided that the Majority party or coalition of parties shall have a majority of one. Similar changes were made to the Public Investments Committee.

### **Lapsing of Bills**

On 4th December 2013, a new amendment was inserted to Standing Order 141 to provide that a Bill that has been published, read a First Time or in respect of which the Second Reading has not been concluded at the end of a Session in which it was published does not lapse at the end of that Session but resumes in the next Session of the same Parliament at the stage where it was last interrupted. Secondly, it was also provided that a Bill would lapse at the end of two consecutive Sessions of the same Parliament and may be republished in the



*A sitting of the Procedure and House Rules Committee adopting a report on the review of Standing Orders.*



same or different form.

### **Admission of Cabinet Secretaries to the House**

On 11th June 2014 and 28th August 2014 during the Second Session of the Eleventh Parliament amendments were adopted by the House to provide for Cabinet Secretaries to report to the House, converting the House into a Committee on General Oversight to receive answers to questions. The Committee on General Oversight would also allow the Cabinet Secretary responsible for finance to make a public pronouncement of the budget policy highlights and revenue raising measures for the national government as contemplated under the Public Finance Management Act. These were effected through the insertion of New Part VA (Admittance of Cabinet Secretaries: Standing Order Nos. 25A – 25D), New Part XA (Cabinet Secretaries Reports: Standing Order Nos. 44A – 44F), New Part XXIA (The Committee on General Oversight – Standing Order No. 170A – 170L). Amendments were consequently made to Standing Order No. 30 (Hours of meeting), Standing Order No. 39 (Weekly Programmes of the Business of the National Assembly), Standing Order No. 44 (Statements Hour) and Standing Order No. 241 (Pronouncement of the Budget Highlights and Revenue raising measures before the Budget and Appropriations Committee).

To allow for Cabinet Secretaries to access the plenary, it was provided that the Speaker would designate a suitable place in the Chamber for the purposes of admitting any Cabinet Secretary to present regular reports to the House contemplated under Article 153 of the Constitution, and for admitting the Cabinet Secretary responsible for finance to make a public pronouncement of the budget policy highlights and revenue raising measures for the national government.

However, whenever the Cabinet Secretary responsible for finance makes the public pronouncement the Speaker does not allow any questions or clarifications to the statement. The Cabinet Secretary would, while in the Chamber, enjoy privileges and immunities under the National Assembly (Powers and Privileges) Act (Cap 6.).

### **Hours of meeting**

Amendments were also made to the hours of meeting. The beginning of Wednesday morning sitting was pushed to 9.30am from 9.00am to end at 1.00pm from 12.30pm.

### **Weekly programmes of the business of the National Assembly**

To enable proper preparation by stakeholders in their contribution to legislation, it was provided that the Clerk shall prepare and publish on the parliamentary website, *tentative schedule of Cabinet Secretaries to present reports to the House*, weekly programmes showing the business of the House and the schedule of sittings of the various committees, and shall circulate such programmes to Members, State Departments, and the media not later than the Friday of the week preceding such business.

### **Statements Hour**

At the beginning of the 11<sup>th</sup> Parliament, Questions asked by Members would

be responded to in writing by the relevant Ministry. The responses would then be read out on the floor of the House by the Chairperson of the relevant Departmental Committee. Gradually, the House felt that this approach was not sustainable as there was no opportunity for Members to get satisfactory answers on Supplementary Questions. Consequently, Standing Order 44(2) (c) was deleted.

This was because adequate opportunity had been provided for questions to be asked and statements to be sought through the Cabinet Secretaries Reporting Time.

### **Cabinet Secretaries' Reports**

In a bid to actualize Article 153 of the Constitution on presentation of regular reports to the House by Cabinet Secretaries on matters under their control, the House introduced Cabinet Secretaries reporting time which would take place every Wednesday, not later than 3.00 pm. The reporting time would not exceed two hours and would be limited to not more than three Cabinet secretaries on a particular day. The reports would either be through the initiative of a Cabinet Secretary or upon request by a Member with the approval of the Speaker.

The number of reports was limited to a maximum of 20 per sitting. The reports would address only the matters specified in the request and if made on the initiative of the Cabinet Secretary, address such matters as the Cabinet Secretary may deem necessary, but may include such matters as may be requested by a member.

The amendments also introduced rules providing for the nature and scope of the requests to be made by members. A member's request for a report had to have a national scope and be within the competence of not more than one Cabinet Secretary. The request could not be admitted if due to its nature or urgency, the issue could be properly addressed in ordinary works of reference or official publications. A member could not be allowed to seek information which was readily available in ordinary works of reference or official publications. The request could neither suggest its own answer nor seek information that was a pretext for debate or argument. The request could not seek an opinion on a question of law. The request could not refer to a matter which had been addressed by a Cabinet Secretary in a report to the House in the same Session. Lastly, the requests were to be restricted to the functions of the national government.

### **The Committee on General Oversight**

The amendment also included the establishment of a Committee to be known as the Committee on General Oversight comprising of all Members of the National Assembly. Cabinet Secretaries would appear before the Committee and answer any question concerning matters for which they were responsible pursuant to Article 153(3) of the Constitution. The Committee would be chaired by the Speaker or by the Deputy speaker in the absence of the Speaker.

### **Quorum**

The amendment provided that quorum for a meeting of the Committee on

General Oversight would be sixteen Members, excluding the person presiding, but a meeting of the Committee may thereafter continue despite there being less than sixteen Members present, unless in exceptional circumstances, the Speaker is of the view that the agenda of such meeting requires not less than fifty Members to be present.

### **Mandate**

Pursuant to the provisions of Article 153(3) of the Constitution, a Cabinet Secretary would appear before the Committee on General Oversight to answer any question concerning a matter for which the Cabinet Secretary is responsible. This did not preclude any other Committee of the House from inviting the Cabinet Secretary to appear before it, but not for the purposes of answering questions. The Clerk would notify the Cabinet Secretaries on the Questions intended to be addressed, at least seven days before the day of the meeting, but the Speaker may certify a Question to be urgent, in which case it may be replied to as soon as the Speaker may recommend.

The Committee would invite up to three Cabinet Secretaries per sitting. The Member who had given a notice of the Questions would then be invited to receive the answers.

### **Meetings of the Committee**

In the amendment, it was proposed that the Committee on General Oversight would meet every Tuesday from 10.00am to 12.30pm. The Committee would not meet when the House is on recess.

### **The Agenda of the Committee**

The Leader of the Majority Party, in consultation with the Speaker, would determine the agenda of the Committee, including the list and order in which Cabinet Secretaries shall appear to answer Questions before the Committee. The Agenda of the Committee, showing the schedule of Questions listed for response and the Order in which questions shall be taken shall be appended on the Order Paper of every Tuesday of the week when the House is sitting.

The Speaker could, on the request of the Leader of the Majority Party vary the order in which Questions are to be disposed of in the Committee, or defer a question scheduled to be responded to.

The Leader of the Majority Party could, every Thursday before 5.00pm, submit to the Clerk a list showing the Questions scheduled for reply the following Tuesday for publication in the Order Paper.

### **Notices of Questions**

Notices of Questions relating to issues of concern to the people were to be given by Members in writing to the Clerk and the Clerk having satisfied himself/herself that the notice satisfies the requirements of the Standing Orders *would* submit the notice to the Speaker for approval. A Member desiring to ask a Question before the Committee on General Oversight was expected to hand to the Clerk

the written request, at least ten days before the day the Member intends to have the Question addressed in the Committee. After the approval by the Speaker, the Clerk, within forty-eight hours, submits the request to the relevant Cabinet Secretary.

### **Questions by Private Notice**

Questions of urgent character or relating to exceptionally important issues of concern to the people could be filed with a notice of the Question at least twenty-four hours before time scheduled for replies, but the question could not be allowed unless it falls within the matters for which a Cabinet Secretary scheduled to attend before the Committee the following day, is responsible. The Speaker could, in exceptional circumstances, on the request of the Leader of the Majority Party allow a Cabinet Secretary to attend and answer to urgent matters before the Committee, notwithstanding that notice has not been given.

### **General rules on Questions for the Committee**

The following general rules applied to questions, including supplementary questions:

- (i) A question by a Member shall not be in effect a speech or limited to give information or framed so as to suggest its own answer or to convey a particular point of view;
- (ii) The facts on which the Question is based may be set out briefly, provided the Member takes responsibility for their accuracy, but extracts from newspapers or quotations from speeches shall not be admissible;
- (iii) A Question shall not contain any argument, inference, opinion, imputation or ironical or offensive expression or epithet and shall not seek an expression of opinion;
- (iv) A Question shall not repeat in substance any matter already addressed, either as a substantive or supplementary question in the Committee on General Oversight or in the course of debate in the House, during the same Session;
- (v) Not more than one subject shall be referred to in any one Question, and a question to the Committee on General Oversight shall not be of excessive length;
- (vi) A Question shall neither include the name of any person or any statement not strictly necessary to render the question intelligible, nor shall it contain any allegation, which the Member is not prepared to substantiate;
- (vii) A Question shall not be made which makes or implies any allegation of a personal nature or which reflects upon the conduct of any person whose conduct can only be challenged upon a substantive Motion or upon the conduct of any other person otherwise than in the person's official or public capacity;
- (viii) Reference shall not be made in a Question to any particular matter which is *sub judice*;
- (ix) A Question shall not seek information which, by operation of any written law, is secret;
- (x) A Question, the answer to which falls within the oversight functions of

County Assemblies as contemplated under Article 185(3) and the Fourth Schedule of the Constitution, shall not be made;

- (xi) A Question, the answer to which is readily available in ordinary works of reference or official publications, shall not be made;
- (xii) A Question shall not refer discourteously to any friendly country, nor to any Head of State or Government or the representative in Kenya of any friendly country and shall not refer to proceedings of a Select Committee before that Committee has made its report to the House.

### **Rules of debate and manner of disposing questions in the Committee**

The amendment also included the application of rules of debate applicable in the Chamber to the consideration of questions before the Committee. Each Cabinet Secretary was expected to provide five copies of the reply at least a day before the meeting of the Committee and could also provide electronic copies of the reply.

Questions were to be disposed of in the sequence appearing in the Order Paper. Not more than five questions could be put down for reply to a particular Cabinet Secretary at any one sitting. A maximum of two supplementary questions were allowed while up to four other Members were permitted to ask further supplementary questions in so far as they relate to the original question. It also allowed questions to be answered in writing if the Questioner is absent without the Speaker's authority. The person presiding would be addressed as the Speaker or Deputy Speaker, as the case may be. Written reply to questions was allowed.

### **Pronouncement of the budget highlights and revenue raising measures before the Budget and Appropriations Committee**

The amendment also provided for the designation of a place and admittance of the Cabinet Secretary responsible for finance to make a public pronouncement of the budget policy highlights and revenue raising measures for the national government.

On the same date that the budget policy highlights and revenue raising measures are pronounced, the Cabinet Secretary submits to the National Assembly a legislative proposal, setting out the revenue raising measures for the national government, together with a policy statement expounding on those measures.

### **Speaker's ruling suspending the Committee on General Oversight**

Following a Memorandum from His Excellency the President dated 17th October 2014, touching on the amendments to the Standing Orders requiring the attendance of the Cabinet Secretaries before the Committee on General Oversight calling for a stay of the provisions and review of the same in view of the doctrine of separation of powers, the Speaker issued new guidelines.

In an attempt at retaining questions as a tool for holding the Executive to account, members of parliament preferred to continue 'Question Time' which gave them an opportunity to ask the Government to clarify its stance on particular issues, commissions or omissions in executing its mandate. One area, however, that created challenges is that of holding the Executive to account by seeking

information through Statements or Questions. Members demanded that Cabinet Secretaries be required to attend before a Committee of the House and answer any question concerning a matter for which a Cabinet Secretary is responsible in line with Article 153(3) of the Constitution.

In the first two sessions, Members sought answers and information on matters affecting their respective constituencies through Statements which required Committees to interact with the Cabinet Secretaries and respond to Members' queries in the House. It was a misapplication of Standing Order 44(2)(c). It was obvious that the method would present challenges, including the Leader of Majority Party and Chairpersons of Committees appearing to be holding brief for the Executive while responding to request for Statements yet the Executive and the Legislature were delinked. This was further compounded by the fact that the Chairpersons should offer leadership when their respective Departmental Committees are carrying out their oversight role on the Executive. The worst scenario was when the Deputy Minority Whip, who also happens to be a member of a Committee, responded to a Statement in the House calling to question the use of Statements for holding the Executive accountable when even the minority were responding on behalf of the Executive.

It was also found out that majority of the Departmental Committees were spending most of their time seeking information and responding to Statements instead of focusing on their mandate, like Budget scrutiny and introduction and review of Bills. The Procedure and House Rules Committee proposed to do away with the Statements and created the Committee on General Oversight. Concerns were however raised that the operation of the Committee might infringe on the doctrine of the separation of powers. His Excellency the President in his Communication to the Speaker raised concerns thus:

*"The framers of the Kenyan Constitution adopted the principle of separation of powers and in presidential systems, a strict separation is often a fundamental constitutional principle. In rare instances would such a system encapsulate "question time" in appreciation of the distinct separation whose fabric runs through the entire system of government."*

In conclusion, the President stated thus: -

*"Constitutionally based separation of powers doctrine will require that provisions relating to the Executive Branch, officials appearing before parliamentary Committees as envisaged under Article 153(3) of the Constitution be implemented in a manner that will not unnecessarily upset the delicate balances between the Executive and the Legislative branches."*

His Excellency the President made the following two recommendations;

1. There be a stay of the newly introduced Standing Orders, New Part XXIA (The Committee on General Oversight - Standing Order No.170A to 170L) as they relate to the answering of questions by Cabinet Secretaries before the Committee on General Oversight.
2. The National Assembly considers revising the newly introduced Standing Orders to emphasize the principle of separation of powers.



The Speaker ruled that:

1. The operation of the Committee on General Oversight be suspended forthwith to enable the National Assembly seek ways to engage on how best to handle the matters that have been raised regarding its establishment. Further, that the Procedure and House Rules Committee spearheads the consultations referred by President.
2. The Cabinet Secretaries shall, once a week on every Tuesday between the hours of 10.00 a.m. and 12.30 p.m. when the House is sitting, be required to attend before Committees of the National Assembly to answer questions submitted by Members concerning matters for which the Cabinet Secretaries are responsible. The provisions relating to questions that applied to the Committee on General Oversight shall apply *mutatis mutandis* to questions in the Committees. In other words, questions will be approved by the Speaker and thereafter transmitted to the concerned Cabinet Secretaries who will then appear before Committees to answer those questions.
3. A maximum of three Committees will meet every Tuesday to give opportunity to Cabinet Secretaries to answer questions submitted to them and on that day, the concerned Committees shall invite the Members who have given notices of the questions to be replied to in the Committees and, indeed, all other Members who may be interested to appear to ask any other supplementary questions.
4. The Leader of Majority Party shall, in consultation with the Executive co-ordinate and determine when the Cabinet Secretaries will appear to respond to questions and shall, every Thursday before 5.00 p.m. submit to the Clerk a list showing questions scheduled for reply the following Tuesday for publication in the Order Paper.
5. The agenda of the Committees having questions showing the schedule of questions listed for response and the order in which the questions shall be taken in the committees shall be appended on the Order Paper of every Tuesday of the week.
6. On the day Cabinet Secretaries are appearing to respond to questions, the questions must be dealt with conclusively and any question not asked shall be carried over to the next meeting of the Committee to be included in the agenda of the Committee when it next meets to consider the questions.
7. To ensure optimum use of parliamentary time, no issue that has been interrogated in Committees during question time will be revisited in the normal business of the Committees and no Cabinet Secretaries will be required to appear again before a Committee of the House on the same or similar question.
8. The Committees having questions will sit every Tuesday within the precincts of Parliament starting 10.00 a.m. and each Committee will have a maximum of 50 minutes to deal with questions falling within its mandate as will have been raised.

While the new Standing Orders were suspended, a part of an Addendum of the Standing Orders retaining Questions to Committees and the order applying the procedure of the Committee on General Oversight remained in force. It should be noted however that following the adoption of the report of the Procedure and House Rules Committee on Thursday 15th June 2017 the Addendum adopted in

2014 that provided for, among other things, the Committee on General Oversight was *revoked*.

**b) Second Review of the Standing Orders (June 2017)**

In order to facilitate the work of the Procedure and House Rules Committee in discharging its mandate and the need to comprehensively review the entire Standing Orders, the Clerk established a Taskforce to undertake the review and report back to the Committee.

The Taskforce was to undertake the following functions:

- (i) Review proposals presented by various Members;
- (ii) Collect and harmonize proposals from other stakeholders;
- (iii) Liaise with Senate colleagues on proposals regarding handling of business between the Houses, and changes to the Joint Rules; and
- (iv) Prepare the actual text for the amendments.

The Taskforce concluded its work and presented its Report to the Procedure and House Rules Committee for consideration, and subsequently for review by the House. Pursuant to Standing Order 263, the Taskforce considered proposals to amend the Standing Orders presented on diverse dates by various Members, and through discussions with and presentations from the Senate Standing Orders Taskforce, representatives of Directorates and Departments, the office of the Attorney General, State Department of East African Community Integration, civil society groups among others. The amendments were adopted with amendments by the House on June 15, 2017.

The following were the amendments:

**PART I: PRELIMINARY**

**Standing Order 1: Matters not provided for**

**Expanding the scope of the guide to the Speaker's decisions:** Standing Order 1(2) was amended by inserting the words "practices" after the word "traditions" to acknowledge the fact that decisions of the Speaker are made based on diverse grounds other than the ones stated therein.

**Standing Order 2: Interpretation**

Standing Order 2 was amended to provide that "broadcast" includes live transmission of the proceedings of the House by radio, television or webcast.

**New Standing Order 2A: Place of the Mace**

New Standing Order 2A was inserted to codify its significance in identifying the authority of the Speaker and the House and shall be kept in safe custody by the Serjeant-at-Arms. This was so as to cure the mischief of attempts to grab the Mace.

**PART II - SWEARING-IN OF MEMBERS AND ELECTION OF SPEAKER**

**Standing Order 3: Proceedings on assembly of a new House;**

**Providing for swearing-in of Members of the East African Legislative Assembly:** Standing Order 3 (2) (b) was amended by inserting the phrase "East African Legislative Assembly" after the phrase "National Assembly."



This is in recognition of the Members of the East African Legislative Assembly as Members who are only second in seniority to the Assembly, given that the Assembly has existed since 1948 and the East African Legislative Assembly has been in existence since 2001.

### **New Part IIA: Process of Removal of the Speaker and Deputy Speaker;**

A new Part on vacation of office of the Speaker and Deputy Speaker was inserted immediately after Standing Order 12. It was deemed necessary to provide for resignation of a Speaker and a formal procedure to cater for due process and for fair hearing for the Speaker in the event of intention for his removal.

### **Standing Order 14: Notification of opening of Parliament**

#### **Provide for timely opening of a new Parliament:**

This amendment was introduced to provide clear timelines when the House shall be opened following the First Sitting of the House after a general election. This is in order to provide for sufficient time for the President to issue the notice to open Parliament in the event that there is a dispute in the Presidential election or cater for cases where it is unknown when the President will open the next sitting of Parliament.

### **REPLACEMENT OF LEADERS OF THE MAJORITY PARTY AND MINORITY PARTY**

#### **Standing Orders 19 and 20: Leader of the Majority Party and Deputy Leader of the Majority Party/Leader of the Minority Party and Deputy Leader of the Minority Party:**

To simplify the process of replacing the Leader of the Majority Party and the Leader of the Minority Party Standing Orders 19 (4) and 20 (4) were deleted. The intention of the provision was to ensure there was no vacuum in the specific offices for streamlined flow of business in the House. It was also noted that this is a political process that should be left to the parties to resolve and subsequently inform the House.

### **ADDRESS BY PRESIDENT, VISITING DIGNITARY AND OTHER PERSONS**

#### **New Standing Order 25A**

#### **Designation of a place in the Chamber for Cabinet Secretaries and other persons:**

New Standing Order 25A was inserted immediately after Standing Order 25 to provide an avenue for presentations before the House by persons such as the Chief Justice, the Auditor General, among other State Officers, in exceptional circumstances.

### **PART VI - CALENDAR, SITTINGS AND ADJOURNMENTS OF THE HOUSE**

#### **Standing Order 28: Calendar of the Assembly;**

#### **Simplifying the adjournment process of the House:**

Standing Order 28(3) was amended by providing for adjournment of the

House without question put on a day other than the next normal sitting day. This was because the House had already approved the decision by ratifying the calendar at the beginning of the session hence there was no need for debate.

### **Standing Order 30: Hours of meeting**

#### **Change of sitting time**

A change was effected to Standing 30(1) to reflect the current Wednesday morning sitting hours beginning at 9.30 a.m. and ending at 1.00 p.m. to reflect current situation as amended in the Addendum to the Standing Orders in 2014.

The Committee had also proposed an extension of the afternoon sitting hours of the House by a further thirty (30) minutes. Time for interruption of business moved to **7.00 p.m.** from 6.30 p.m., and to **7.30 p.m.** from 7.00 p.m., in the event of an Allotted Day. This change in sitting time was informed by the fact that there is a lot of business, especially by Members, and there was need to create more time for debate, especially with the increased House membership.

### **PART VIII - ORDER OF BUSINESS**

#### **Standing Order 38: Order Paper to be prepared and circulated;**

**Making provision for a Supplementary Order Paper:** A change was effected to codify the existing practice of allowing for the possibility of a Supplementary Order Paper in the event of change of the business to be considered after publication of the Order Paper.

### **PART IX – MESSAGES**

#### **New Standing Order 42 (3A);**

#### **Providing for Messages from the Executive other than the President:**

New Standing Order 42(3)A was introduced to cater for receipt of Messages from the Cabinet and any other office in the Executive other than the President and from the Senate.

### **PART X – STATEMENTS**

#### **Standing Order 43: Member's general statements**

Change of timing for Members to make general statements from Tuesday at 6.00 p.m. at 6.30 p.m. to accommodate the changed timing for interruption of business of the House.

#### **Standing Order 44: Statement Hour**

**Re-introduction of Chairpersons' statements:** Standing Order 44(2) (c) was introduced so as make provision for cases where Chairpersons of Committees have to make statements in the House on matters before their Committees.

### **PART XII – MOTIONS**

#### **New Standing Order 47 (4A);**

**Providing for procedure of consideration of Motions for removal from State Office:**

A new Standing Order 47(4A) on a notice of motion under Part XIV (*Procedure for removal from State Office*) was introduced. This was to allow for such a sensitive matter to be considered expeditiously by the House and avoid a hanging noose on the State Officer who is the subject of the removal.

**PART XIII – SPECIAL MOTIONS**

**Standing Order 61: Definition of Special Motion**

**Providing for removal of a Speaker or Deputy Speaker as a Special Motion:**

An amendment was inserted to provide for a resolution for removal of a Speaker or Deputy Speaker from office as a **special Motion**.

**PART XIV - PROCEDURE FOR REMOVAL FROM STATE OFFICE**

**Standing Orders 63 and 64** were amended to provide that a motion for removal of President on grounds of incapacity and impeachment should have its subject matter indicated on every sheet so as to ensure that Members are aware of the objective of a Motion they intend to support and ensure credibility of the Motion. Further, clear grounds on removal on grounds of impeachment were elaborated.

**Standing Order 66: Procedure for removal of Cabinet Secretary;**

Standing Order 66 was amended to provide that a motion for removal of President on grounds of incapacity and impeachment should have its subject matter indicated on every sheet so as to ensure that Members are aware of the objective of a Motion they intend to support and ensure credibility of the Motion.

**PART XV – VOTING AND DIVISIONS**

**Standing Order 70: Electronic voting;**

Standing Order 70(7) which was applicable when voting lobbies were still in use was deleted as it contradicts Standing Order 76 (2) which states that it shall be disorderly conduct for a Member to fail to record his or her abstention in a division.

**PART XVIII – ORDER IN THE HOUSE AND IN COMMITTEE OF THE WHOLE HOUSE**

**New Standing Order 99 (2):** Standing Order was amended to provide for security checks or screening to extend to a handbag or other accessory that a Member intends to enter with into the Chamber.

**PART XVIII - ORDER IN THE HOUSE AND IN COMMITTEE OF THE WHOLE HOUSE**

**Standing Order 107: Disorderly conduct;**

This amendment was to expand the definition of disorderly conduct to provide for graduated scale of punishment commensurate to the disorder and manner of punishment for Members of Parliament: The Committee

observed that there is need to redefine and categorize disorderly conduct into two, that is Disorderly Conduct and Gross Disorderly Conduct.

### **Effect of suspension**

A new Standing Order 110A provides that on suspension from the service of the House a member may appear before a Committee for the consideration of a Bill sponsored by the Member.

### **Appeal against suspension**

A new Standing Order 110B provides for the procedure for a member to appeal against suspension to the Committee of Privileges.

### **Definition of a day**

A new Standing Order 112A was introduced to define the word “day” for the purposes of Part XVIII to mean a calendar day.

## **PART XIX – PUBLIC BILLS**

### **Standing Order 114: Introduction of Bills;**

**Manner of handling legislative proposals:** Standing Order 114 was amended in order to provide a better mechanism of conducting pre-publication scrutiny on legislative proposals. The major changes introduced are that where the Speaker is of the opinion that a legislative proposal is a money Bill, he shall direct that the proposal be referred to the Budget and Appropriations Committee which shall consider only the money-bill or financial aspects of the proposal and submit a report to the Speaker within twenty-one (21) days of receipt of the proposal. It is only after the Speaker receives the recommendations of the Budget and Appropriations Committee that the Speaker directs the proposal be subjected to prepublication scrutiny before the relevant Departmental Committee in case of a legislative proposal not sponsored by a Committee. It should be noted that unlike previously where the Budget and Appropriations Committee did not have a timeframe within which it could submit its report, the period has been fixed at twenty-one (21) days of receipt of the proposal. The period of consideration of a legislative proposal by a Departmental Committee has been increased from fourteen (14) days to twenty-one (21) days.

### **New Standing Order 114A**

New Standing Order 114A was introduced to exempt a legislative proposal which originates from the Party forming the National Government from undergoing prepublication scrutiny before it is published into a Bill.

### **Standing Order 121: Bills concerning county government**

Standing Order 121 was amended to realign it with the provisions of Article 110 (3) of the Constitution. The amendment will ensure that whenever any question arises as to whether a Bill concerns county governments, the Speaker makes a determination on the nature of the Bill.

### **Standing Order 122: Procedure upon publication**

Standing order 122 was amended to realign it with the provisions of Article

110(3) of the Constitution. The provisions of Article 110(3) are clear as to when the determination is made and the nature of the questions to be answered in making the determination.

### **Standing Order 123: Concurrence on Bills**

This Standing Order was deleted because new Standing Order 121 (3) provides for the two Speakers to agree on an appropriate framework for determination of the matter. It was expected that the change would encourage dialogue as opposed to pure correspondence when handling of matters between the two Houses.

### **Standing Order 124: Not more than one stage of a Bill to be taken at the same sitting**

This Standing Order was amended to allow more than one stage of a Bill to be taken at the same sitting with respect to a County Allocation of Revenue Bill, Division of Revenue Bill, Equalization Fund Bill, and a Bill to amend the Constitution in respect of its Second and Third Reading. This is in addition to the Appropriation Bill and the Consolidated Fund Bill.

### **Standing Order 127: Committal of Bills to Committees and public participation**

Standing Order 127 was amended to provide for the principle of public participation and outline the activities to be undertaken in the process of conducting public participation by committees. It was further amended to provide that the purpose of a Report on a Bill is to inform debate based on views collected from public participation conducted by the Committee; and not for adoption by the House.

### **Standing Order 131: Referral of proposed amendments to Committees**

Standing Order 131 was amended to ensure harmonization of proposed amendments to a Bill despite their number.

### **Standing Order 133: Procedure in Committee of the whole House on a Bill**

#### **Elaboration of the process of debate in Committee of the whole House:**

New Standing Order 133 (1A) was introduced to ensure that debate to a proposed amendment is confined to the content of the amendment.

Paragraph 7 was also amended to exempt Members from moving amendments whose effect would be to impose a charge or increase expenditure above that already resolved by the House on the Division of Revenue Bill or County Allocation of Revenue Bill. This is in addition to the Appropriation Fund Bill, Consolidated Fund Bill and Equalization Fund Bill.

### **Standing Order 136: Procedure on Bills reported from Committee of the whole House**

New Standing Order 136 (1A) was introduced to provide a detailed explanation on the Recommittal Procedure for clarity.

**Standing Order 137** was amended to link the procedure of laying a report on a Bill by a select committee to the procedure under Standing Order 127(2).

**Standing Order 141** was amended to exempt Constitutional Amendment Bills, Division of Revenue and County Allocation of Revenue Bills and Senate Bills from lapsing upon defeat at the Second Reading or Third Reading, and from lapsing at the end of two consecutive Sessions of the same Parliament if Second Reading of the Bill has not been concluded. This exemption also allows for republication of the Bills in the same form within a six-month period where necessary.

**Standing Order 143: Consideration of Bills originating from the Senate;**

**Outlining manner of consideration of Bills from the Senate:** Standing Order 143 was deleted and replaced with a new Standing Order to prescribe the manner of handling Bills originating from the Senate. These are to be referred to the Parliamentary Budget Office by the Speaker for certification. If certified as money Bills, they are to be referred to the Budget and Appropriations Committee which is to table a report to the House recommending what action the House should take for decision.

**Referral of Bills by President**

Standing Order 154 was amended to clearly elaborate the manner of consideration of Presidential Memoranda including constitution of a Joint Committee on a Bill concerning both Houses. This procedure will be harmonized in both Houses.

**PART XXII - SELECT COMMITTEES**

Various proposals were effected to the Standing Orders on Committees to effect the following: -

**Standing Order 171: House Business Committee**

Standing Order 171 was amended by incorporating the Majority Party Whip and the Minority Party Whip or their representatives to be part of the mandatory members of the House Business Committee -

The amendment would clarify the whips must be Members of the House business Committee, and reduce the number of the rest of the Members to seven members. This reduced membership is expected to enhance the efficiency of the Committee by mainly involving the leadership of the House in setting the weekly business.

**Standing Order 172: Committee on Selection**

The Standing Orders were amended to enshrine the position of independent Members in Committees. The membership of the Committee was however retained.

**Standing Order 174: Criteria for nomination**

**Improving the efficiency of Committees:** Standing Order 174 was amended to reduce multiple memberships of Members to Committees which leads to lack of quorum as Members have a competing need to attend more than one meeting taking place within the same period. It is expected that the amendment will also improve the efficiency of Committees by attempting to balance Membership in accordance with the intensity of engagement of



Committees.

Having a majority of Members in the watchdog Committees from the Minority Party would enable effective oversight by the Minority Party.

### **Standing Order 176: Discharge of a member from a committee**

**Applying due process and giving the Member a fair hearing in the discharge from a Committee:** In the past, Members were discharged from a committee with neither notice nor an opportunity to be heard. The amendment provided for the process of discharge of Members from Committees by confining the matter to a political party after according the Member an opportunity to be heard. The amendment also provides for notice to the Member of the discharge.

### **Standing Order 178: Chairing of select committees and quorum**

The Standing Order was amended to provide that the Chairperson and Vice-Chairperson of the Public Accounts Committee, the Public Investments Committee and the Committee on Implementation be from a member from a party other than a parliamentary party forming the national government.

The amendment was informed by the need to strengthen the oversight role of the watchdog Committees.

The proposed Special Fund Accounts Committee would elect a Chairperson and Vice-Chairperson from amongst independent members nominated to the Committee or a member from a party other than a parliamentary party forming the national government, in the absence of independent members. It is expected that this amendment would assist in recognition of independents in the Standing Orders by giving them leadership roles.

### **Standing Order 179: Conduct of election**

**Providing the procedure of conducting the election of Chairperson or Vice-Chairperson of a committee:** Standing Order 179 was amended to provide for the manner of conducting of elections of Chairs and Vice Chairs of Committees. The Standing Order provided for the conduct of election but without elaborate provisions on the mode of conduct.

### **Standing Order 184: Members adversely mentioned not to sit**

The Standing Order was amended to provide for legal representation for a Member adversely mentioned during appearance before a Committee.

### **Standing Order 188: Absence of chairperson and vice-chairperson**

**Provision for democracy:** Standing Order 188 was amended to allow Members to determine their leadership and enhance democracy at committee level by deciding on the temporary Chairperson.

### **Standing Order 191: Powers and Privileges of Committees**

The Standing Order was amended to prescribe oaths to be sworn or affirmation to be made by a witness appearing before a committee, which would be in the form set out in the Sixth Schedule. New Standing Order 191 was introduced to provide for action to be taken where a witness summoned

does not appear, or appears but fails to satisfy the House or committee. The House or Committee may impose upon the witness a fine not exceeding five hundred thousand shillings, payable to the Clerk, having regard to the witness' condition in life and all the circumstances of the case or even order the arrest of a witness who fails to honour a summons for the purpose of compelling his or her attendance.

**Standing Order 193: Vote of no confidence in the Chairperson or Vice-Chairperson**

**Providing process for serving of Vote of no confidence in a Committee Chairperson or vice chairperson:** The Standing Order was amended to provide that Members desiring to make a resolution on a vote of no confidence in the Chairperson or Vice-Chairperson serve the Chairperson or Vice-Chairperson with a written notice citing grounds through the Clerk. This would instill professionalism into the process.

**Standing Order 200: Exit reports**

**New Standing Order 200A: Providing for Exit reports at the end of a Parliamentary term.**

New Standing Order 200A was introduced to provide for tabling of an exit report by a Committee which is unable to complete its work before the expiry of its term.

The report would enable the Committee in the subsequent Parliament to consider the pending issues in their work plan.

**Standing Order 205: Public Accounts Committee, Standing Order 206: Public Investments Committee, and Standing Order 209: Committee on Implementation.**

**Strengthening of the Oversight role of the oversight Committees:** Standing Orders 205, 206 and 209 were amended to achieve effective oversight for the Public Accounts Committee, Public Investments Committee and Committee on Implementation respectively.

The Membership to the three Committees will henceforth be constituted immediately following the general elections and serve for the term of that Parliament for continuity and maintenance of institutional memory.

**New Standing Order 205A**

**Establishment of a select committee to be designated the Special Funds Accounts Committee:** New Standing Order 205A was introduced to establish a Special Funds Account Committee which would examine audited accounts of political parties, special funds and other such funds established from time to time by the national executive. It will also ease pressure on the Public Accounts Committee which has a large number of reports to consider.

**Standing Order 207: Budget and Appropriations Committee**

The Standing Order was amended to allow the Budget and Appropriations Committee to establish such sub-committees that it may consider necessary for the discharge of its functions, including sub-committee on legislative



review.

### **New Standing Order 212A**

**Procedure for presentation of reports from the East African Legislative Assembly and the Pan-African Parliament:** New Standing Order 212A was introduced to formalize the existing practice where the Committee on Regional Integration presents a report on any matter relating to the work of the East African Legislative Assembly or the Pan-African Parliament. The Clerk of the National Assembly also forwards the records of debates, Bills or Acts received from the East African Legislative Assembly, Bills or Acts of the Community to the relevant committee for consideration within twenty-one days.

### **New Standing Order 212B**

**Formation of a Committee on Members' Services & Facilities:** New Standing Order 212B was introduced to establish a Committee on Members' Services and Facilities. The Committee's functions are to consider, advise and report on Members' welfare and provide a forum for Members to raise concerns on these issues.

The new Committee replaces the National Assembly's Catering and Health Services Committee.

### **Standing Order 216: Appointment of Departmental Committees**

**Reorganization of Committee mandates:** Standing Order 216 was amended by assigning additional functions to departmental committees. These functions include examining treaties, agreements and conventions, reporting to the House on proposed legislation, consideration of reports for commissions and independent offices submitted to the House pursuant to provisions of Article 254 of the Constitution and examination of any question.

## **PART XXIII - PUBLIC PETITIONS**

Standing Order 230 was amended and added further requirements that a Petitioner should include in a Petition for the removal of a member of a Commission or a holder of an independent office. Therefore, apart from the grounds under Article 251(1) of the Constitution:

- a) where the grounds relate to violation of the Constitution or any other law, the Petitioner shall state with a degree of precision the provisions of the Constitution or any other written law that have been alleged to be violated;
- b) the Petitioner shall indicate the nexus between the member concerned and the alleged grounds on which removal is sought.

In addition, the amendment provided that petitions for removal of members of Commissions and holders of independent offices shall not lapse at the expiry of a term of Parliament.

## PART XXIV - FINANCIAL PROCEDURES

### **Standing Order 232: Presentation of Budget Policy Statement and the Debt Management Strategy;**

#### **Inclusion of the Debt Management Strategy as a document for submission:**

Standing Order 232 was amended to formally include the Debt Management Strategy as part of the documents submitted with the Budget Policy Statement, pursuant to the Public Finance Management Act.

### **Standing Order 233: Consideration of Division of Revenue Bill and Standing Order 234: Consideration of County Allocation of Revenue Bill;**

**The role of the Commission on Revenue Allocation:** These two Standing Orders were amended to require the House to take into account the views of the Commission on Revenue Allocation in considering the Division of Revenue Bill and County Allocation of Revenue Bill.

### **Standing Orders 236 - 240: Committee of Supply**

**Actualization of the Committee of Supply:** Standing Orders 237 – 240 were amended to simplify the procedure for the Committee on Supply and stipulate the motion to be considered by the House.

### **New Standing Order 240: Appropriation Bill and Equalization Fund Appropriation Bill**

**Manner of dealing with the Appropriation Bills:** New Standing Order 240 was introduced to stipulate the process of how the Appropriation Bill and Equalization Fund Appropriation Bill Bills are introduced to the House and processed. The provision further sets the deadline for passage of the Appropriation Bill.

### **Standings Order 243 - 244: Procedure on Supplementary Estimates**

**Simplification of consideration of supplementary estimates:** Standing Orders 243 and 244 were amended to stipulate the process for dealing with supplementary estimates along with introduction of the Supplementary Estimates Bill. Further, the procedure for actualizing provisions of Article 223(5) of the Constitution on spending of sums of 10% over the approved amounts in that year's Appropriation Bill was factored into the Standing Orders.

### **Standing Order 245: Consideration of Finance Bill**

Standing Order 245 was amended to allow the Budget and Appropriations Committee to handle the Finance Bill, in order to have a well-rounded process. This provision is based on the consideration that the Committee handles the expenditures, which are informed by the revenues..

## PART XXVII – PUBLIC ACCESS TO THE HOUSE AND ITS COMMITTEES

**Standing Order 254: Exclusion from the House or committees; Strengthening the authority of a Chairperson of Committee:** Standing Order 254 was amended to empower Chairpersons to enforce the Standing Order in Committee meetings.

## PART XXVIII – GENERAL

**Standing Order 256A: Extension of period prescribed and extension of timelines given in the Standing Orders:** Standing Order 256A was amended to simplify and clarify the practice and modalities of extending timelines for consideration of various aspects of business. This provision was based on the fact that Committees of the House may be compelled to seek leave for extension of timelines for consideration of a petition for removal of a constitutional office holder, public petitions, and amendments to the Standing Orders, among other matters.

### **New Standing Order 256B: Summons by the House**

New Standing Order 256B was introduced to actualize Article 125 (1) of the Constitution by allowing any Member to request the House to summon a person to appear before the House, with the Clerk being required to issue the said summons within three days of the approval of the House.

### **Standing Order 259: Seating in the Chamber**

**Designating seating space for leaderships of the House:** Standing Order 259 was amended to include designated seating space in the Chamber for the Chairperson's Panel members, Deputy Leaders of Majority and Minority Parties, Party Whips and Committee Chairpersons. This will ensure easier access to the leaders in the Chamber, since they frequently conduct business there, e.g. notices of motion, tabling documents, moving Bills or Motions, among others.

## PART XXX –TRANSITIONAL PROVISIONS

### SECOND SCHEDULE

#### **Departmental Committees**

The Second Schedule of the Standing Orders was amended to restructure the Committee system of the National Assembly primarily through splitting and merging various Committees. Subsequently, three new Departmental Committees were established, namely, Communication, Information & Innovation; Sports, Tourism & Culture; and Trade, Industry & Cooperatives. As a result, the Finance Planning and Trade Committee, Agriculture, Livestock and Cooperatives Committee, and the Labour and Social Welfare Committees were split.



**Contacts Us:** National Assembly, Parliament Buildings  
Parliament Road, P.O. Box 41842-00100  
Nairobi, Kenya

**Website:** [www.parliament.go.ke](http://www.parliament.go.ke)



[clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)



[@NAAssemblyKE](https://twitter.com/NAAssemblyKE)



Parliament of Kenya



Kenya National Assembly Live Proceedings