



Parliament of Kenya

The National Assembly

Procedure in Committee of the Whole House on a Bill



Fact Sheet

No. 3



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Procedure in Committee of the Whole House on a Bill

Meaning, Mandate, Powers and Procedure in the Committee of the Whole House

Meaning –The Committee of the whole House, as implicit in the name, consists of all the Members of the House. It is in fact the House itself but in a less formal guise in plenary, presided over by a Chairperson and conducting its business according to more flexible rules of procedure. When the House resolves itself into a Committee of the whole House, a new Committee is created on an *ad hoc* basis and once the task is completed the Committee ceases to exist.

The meeting of the Committee of the whole House is held in the Chamber and is presided over by the Deputy Speaker (also known as the Chairperson of Committees of the whole House) or one of the members of the Chairperson's Panel. The National Assembly has four members of the Chairpersons Panel, namely, the First, Second, Third and Fourth Chairpersons of Committees. The person presiding in the Committee of the whole sits at the Clerk's Chair at the Table while the Speaker's chair remains vacant for the duration of the Committee. Worth noting too is that by practice, the Mace is lowered to indicate that the rules are less formal than when the House is in plenary.

One key function of a Committee of the whole House is deliberation, and not inquiry. Compared to Standing Committees which may initiate studies or inquiries of concern to the House, the Committee of the whole House considers only questions or Bills which the House commits to the Committee. All Bills that have



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Members of Parliament following proceedings during a committee of the whole House

gone through a second reading are referred to a Committee of the whole House for consideration and review.

The rules in a Committee of the whole House are less formal than those which apply when the House is in session and when the Speaker is in the Chair. For example, Members may speak more than once on any item.

Mandate and powers

The mandate and powers of the Committee of the whole House is limited to the following–

- (a) Consideration of questions or Bills referred to it by the House while taking into account any instructions given to it by the House through the Speaker; and
- (b) The Committee cannot adjourn a Sitting of the House or adjourn its consideration of a Bill to a future Sitting unless the Committee reports to the House its conclusive consideration of a Bill or alternatively reports progress made in consideration of a Bill committed to it. Such a decision is the preserve of the House sitting in Plenary.

Powers and duties of Chairperson of the Committee of the Whole House

The Chairperson of the Committee of the whole House wields some of the powers similar to those conferred to the Speaker when the Speaker presides over a Sitting of the House.

His/her duties are largely confined to the following –

- (a) presiding over the Committee of the whole House (*the Chairperson therefore has no vote*);
- (b) proposing the question to clauses, amendments to clauses, schedules, title of the Bill under consideration and putting the question thereon; and
- (c) making a formal report of the Committee of the whole House to the plenary upon resumption of the House.

The Standing Orders empower the Chairperson of Committees of the whole to maintain order and decorum in the Committee just as the Speaker does in the House and to decide questions of order. However, the Chairperson does not possess the authority to name a Member and order him or her to withdraw from the Chamber for the remainder of the day. That power can only be exercised by the Speaker in the House upon receiving a report from the Chairperson of Committees of the whole House. All the Chairpersons of Committees namely, the First, Second, Third and Fourth Chairperson have the same powers as the Chairperson of Committees (Deputy Speaker).

Resolving into a Committee of the whole House

When the Order of the Day is read for the House to go into a Committee of the whole House to consider a resolution or Motion or when it is ordered that a Bill be considered in a Committee of the whole House, no question is put. The Speaker leaves the Chair and exits the Chamber. The Chair of the Committee is taken by the Chairperson of the Committees of the whole House. The Chairperson of the Committee sits at the Clerk's chair at the Table, and the Table Officers sit to the right and left of the Chairperson. One of the Table Officers acts as the Clerk of the Committee of the whole House.

Conduct of Debate in a Committee of the Whole House

Proceedings in a Committee of the whole House are governed by the Standing Orders as far as may be applicable and by long-established practices. While Members must be recognized by the Chairperson before speaking or moving a motion, discussions are less formal. For example, Members may occupy, speak and vote from places other than those regularly assigned to them, and they may be recognized to speak more than once to a question, although they may not share their speaking time. As in the House, where all remarks are addressed to the Speaker, all remarks must be addressed to the Chairperson. However, in practice, Members often address one another, ask questions and receive answers directly.

The same rules and practices that apply to motions in the House generally apply in a Committee of the whole, except that motions in Committee of the whole House do not require a seconder. Once proposed, motions may be withdrawn only by the Mover and only with the unanimous consent of the Committee. When an amendment is moved, debate must proceed on the amendment until it is disposed of.

Quorum

Under the provisions of Article 121 of the Constitution and the Standing Orders of the House, a quorum of fifty Members (excluding the Speaker), is required to constitute a meeting of the House for the exercise of its powers. Fifty Members is

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also the quorum for a Committee of the whole. If a Member draws the attention of the Chairperson to lack of quorum in a Committee of the whole House, the Chairperson counts the Members. If fifty Members are not present, the Chairperson orders that the Bell be rang for ten minutes. If at the expiry of the ten minutes the Chairperson confirms that there is quorum, proceedings continue. However, if there is no quorum at the expiry of the ten minutes, the Chairperson leaves the Chair and reports the fact to the Speaker, who adjourns the House until the next sitting without question put. Any proceedings which are brought to a close by a lack of quorum in the House are allowed to stand and retain their precedence in the *Order Paper* for the next sitting when the Order is called for the House to resolve into a Committee of the whole. At that time, the Committee resumes its business from the point at which it was interrupted.

Relevance in a Committee of the Whole

Speeches in a Committee of the whole must be strictly relevant to the item or clause under consideration. If a Member's speech is not relevant to the debate, the Chairperson is empowered to call the Member to order and if, necessary, warn that he or she risks being reported to the House. Moreover, debate must be confined to the question or contents of the Bill.

Disorder in a Committee of the Whole

The Chairperson is empowered to maintain order in a Committee of the whole and to decide on all questions of order. However, if a Member persists in irrelevance or repetition, refuses to withdraw unparliamentary remarks or to resume his or her seat when so requested, or if the proceedings become disorderly and the Chairperson is unable to restore decorum in the Committee, the Chairperson may rise and report the incident to the Speaker without seeking leave of the Committee. The Speaker at that point takes the Chair, receives the report of the Chairperson, and deals with the matter as if the incident had happened in the House and may subsequently name the Member. In the case of unparliamentary language, the Speaker may request the Member to withdraw the remarks. After the matter has been dealt with, the Committee resumes its deliberations without a Motion to this effect. In extreme cases of disorder in a Committee of the whole, the Speaker takes the Chair without waiting for the Chairperson to report.

Extension of Time

Only when the Speaker is in the Chair, may a Member move a Motion, without notice, to extend the sitting time beyond the ordinary hour of daily adjournment to continue consideration of a particular item of business. When the House is in a Committee of the whole House, a Member must indicate his intention to move such a Motion; the Chairperson interrupts the proceedings and rises; the Speaker takes the Chair and the Chairperson reports progress to the House and requests leave to sit again the same day.

The Member who had indicated his intention to move the Motion to extend sitting hours moves the Motion which is then disposed of with the Speaker in the Chair. The Motion cannot be debated or amended and such a Motion should be moved at least thirty minutes before the time appointed for adjournment. Once the Motion is disposed of, the House resolves itself back to Committee of the whole House and resumes consideration of business interrupted.

Adjournment

A Committee of the whole House has no powers to adjourn its own sitting or to adjourn consideration of any matter to a future sitting. If its consideration of a matter is not concluded by the ordinary hour of daily adjournment, the Chairperson interrupts the proceedings and rises. The Speaker takes the Chair and the Committee reports progress to the House and requests leave to sit again to consider the business at the next sitting.

During consideration of a Bill or Motion in a Committee of the whole, a Member may move “That, the Chairperson do report progress”. A Motion that “the Chairperson does report progress” has the same effect as a Motion for the House to adjourn debate. In other words, if this Motion is adopted, no further debate can occur on the matter under consideration that day. If this Motion is rejected, the Committee continues sitting and the question cannot be put again until some intermediate proceeding has taken place.

After a Committee of the whole House has risen, reported progress and received leave to sit again at the next sitting of the House, when the Order is next called, the House goes into a Committee of the whole House and the Committee resumes its business from the point at which it was adjourned.

Procedure in the Committee of the Whole House

Consideration of Bills in the Committee of the whole proceeds in the manner prescribed hereinafter. Once the Order for “Committee of the whole House” has been called, the Chairperson takes his/her seat and the Committee is called to order. Deliberation on the Bill under consideration then proceeds in the sequence provided for in the Standing Orders, which is –

- (a) clauses as printed, excluding the clauses providing for the citation of the Bill, the commencement, if any, and the interpretation;
- (b) new clauses;
- (c) schedules;
- (d) new schedules;
- (e) interpretation;
- (f) preamble, if any;
- (g) long title; and
- (h) the clauses providing for the citation of the Bill and the commencement

1. Clauses/schedules without amendments

For a clause to which there are no proposed amendments, the question that “Clause ‘x’ be part of the Bill” shall be proposed and put forthwith by the Chairperson. In instances where several consecutive clauses to which no amendment has been proposed, the question framed as “Clauses ‘p’ to ‘z’ be part of the Bill” shall be proposed and put forthwith on all of them *en bloc*. No debate shall be entertained whatsoever on clauses without proposed amendments.

2. Clauses/schedules with amendments

Consideration of clauses/schedules with amendments is done in two stages –

Stage one: Proposing the question and consideration of proposed amendments

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Once the question “That, clause ‘x’ be part of the Bill” has been proposed, Members desirous of moving amendments to the said clause/schedule are accorded the opportunity to move their respective amendments in their logical sequence. Proposed amendments shall be moved after the question has been proposed but before it is put.

All proposed amendments are moved by way of a Motion couched as “That, clause ‘x’ be amended as proposed in the Order Paper” after which debate ensues on the proposed amendment(s).

Notice for all amendments must be given at least twenty four hours before commencement of the Sitting in which the Bill they relate to is scheduled for consideration in the Committee of the whole House. They must also be published in the Order Paper. This condition precludes *floor amendments* proposed by the owner of the Bill.

(i) Consideration of amendments to proposed amendments

An amendment to a proposed amendment is an alteration proposing to change a question for an amendment to a clause/schedule/title already proposed by the Chairperson of the Committee. The cardinal feature of an amendment to amendment is that its content must be related to subject of the question already proposed. Secondly, notice is not required for such an amendment to be moved, and they may or may not appear in the Order Paper.

In disposing of the amendments, precedence shall be accorded to the amendment to the amendment. If a question for an amendment to amendment is carried, then the original amendment is deemed to have been amended and if the converse happens, the House shall revert to consider the original amendment at the end of which a question for the amendment is put.

(ii) Consideration of further amendments

Unlike amendment to an amendment, a further amendment is a subsequent amendment to the same clause/schedule/title for which another amendment has already been proposed and disposed of. As is the case with proposed amendments, notice for all further amendments must be given at least twenty four hours before commencement of the Sitting in which the Bill they relate to is scheduled for consideration in the Committee of the whole House. They must also be published in the Order Paper. This condition precludes *floor amendments* proposed by the owner of the Bill. However, further amendments with ‘money’ implications are disallowed except with the permission of the Speaker and with the approval of the Budget and Appropriations Committee following consultations with the Cabinet Secretary responsible for the National Treasury.

In disposing of clauses or schedules where various amendments have been proposed, precedence shall be accorded to the amendment proposing deletion.

Stage two: putting of the question for the clause

Once the Committee has expressed itself on all proposed amendments to a

clause/schedule/title, the Chairperson shall put the question "That, clause/schedule/title as amended be part of the Bill."

3. New clauses/schedules

In principle, new clauses/schedules are expected to be considered at all stages preceding the Committee Stage. However, it is presumed that having their publication in the Order Paper constitutes First Reading. Consideration of new clauses/schedules therefore progresses through the following stages –

Stage one: Second Reading

First, the Clerk calls out the new clause or schedule. Thereafter, the Chairperson calls the mover to move Second Reading of the new clause or schedule. This is done by way of a Motion framed as "I beg to move that the new clause/schedule "3A" be read a Second Time" and proceeds to explain the meaning, purpose and effect of the proposed amendment. The Motion does not necessarily require to be seconded.

The Chairperson then proposes the question "That, the new clause/schedule "3A" be read a Second Time" and allows debate to ensue (*if interest is demonstrated by Members*). If no debate arises, or at the end of debate (as the case may be), the Chairperson shall put the question "That, the new clause/schedule "3A" be read a Second Time." This marks the end of stage one.

Stage two: putting the question

This stage implies inclusion of the approved new clause/schedule in the Bill. At this stage, the Chairperson proposes the question "That, the new clause/schedule "3A" be part of the Bill" then allows interested Members to debate the Motion. Thereafter, the Chairperson puts the question "That, the new clause/schedule "3A" be part of the Bill." If the question is agreed to, the new clause/schedule as approved stands part of the Bill.

4. Reporting Committee Stage consideration of Bills to the House

Upon conclusion of the proceedings on a Bill(s) in the Committee of the whole House, the Member(s) in charge of the Bill(s) shall move the Motion, "That, the Committee do report to the House its consideration of the "xyz" Bill and its approval thereof with/without amendments (*whichever is applicable*)."

The Chairperson puts the question thereon and once the Committee agrees to the question, the Chairperson shall forthwith leave the Chair of the Committee and the House shall resume. Upon resumption of the House, the Bill(s) shall be reported.

5. Re-committal of Clauses of a Bill in the Committee of the Whole House

Meaning- Re-committal process refers to the referral of a clause(s)/schedule (s) of a Bill that has been otherwise considered and passed by the Committee of the whole House to the same Committee for reconsideration and subsequent approval.

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Recommit at what stage?

Recommittal process commences upon resumption of the House and after the Mover of the Bill has moved the Motion that **“The House do Agree with the Committee in the said Report”** and the question has been proposed by the Speaker for agreement with the Report. As a matter of good practice though not mandatory, a Member desirous of recommitting a clause (s) may notify the intention of doing so to the Chairperson of the Committee.

Steps:

- **Step 1:** Mover of Re-committal: The Member who wishes to move re-committal moves – “that, the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words **“subject to re-committal of Clause---”**. *(Requires a seconder)*;
- **Step 2:** Speaker proposes Question: “hat, the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words **“subject to re-committal of Clause ...”**”
- **Step 3:** Speaker Puts the Question: “That, the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words **“subject to re-committal of Clause...”**”
- **Step 4:** If the AYES have it, the House resolves back into a Committee of the whole House forthwith or on a later day .
- **Step 5:** If the NOES have it, the Speaker puts the Question for Agreement with the Report of the Committee and the House proceeds to the Third Reading of the Bill.

6. Reporting Progress of the Committee of the Whole House

Reporting of progress of the Committee of the whole House may be resorted to under the following two scenarios –

- (a) at the time of adjournment of the House and no Procedural Motion to extend sitting time has been moved and agreed, yet Committee stage on a Bill has not been concluded; and
- (b) when the Mover, the Chairperson of the relevant Departmental Committee or any other Member is desirous of postponing consideration of Bill(s) at Committee stage to a later date for one reason or another. For example, when additional time is required to allow more Members to file proposed amendments to the Bill; or to harmonize proposed amendments through the *winnowing process (consolidation of related amendments)*;

Any Member wishing to indulge the House to Report progress of the Committee of the whole House shall do so by way of a Motion. The Motion is generally framed as follows –

“I beg to move that the Committee do Report to the House its partial consideration of the ‘xyz’ Bill up to clause/schedule....., and its approval thereof without/without amendments (whichever is applicable), and seek leave to sit again.”

Thereupon, the Chairperson shall put the question -

“That, the Committee do Report to the House its partial consideration of the ‘xyz’ Bill up to clause/schedule, and its approval thereof

without/without amendments (whichever is applicable), and seek leave to sit again.”

If the question is decided in the affirmative, the Chairperson shall leave the Chair and the Chairperson, or, if the Chairperson has taken the Speaker's Chair, the Member in charge of the Bill, shall report progress to the House and shall seek leave to sit again. This shall be reported as follows –

“I beg to report that the Committee of the whole House has partially considered the xyz Bill up to clause/schedule ..., and its approval thereof without/without amendments (whichever is applicable), and seek leave to sit again.”

The Speaker then calls upon the owner of the Bill to move agreement with the said Report of the Committee. This motion needs to be seconded. Subsequently, the Speaker shall propose the question for adoption of the said Report and thereafter put the question forthwith or at the end of the ensuing debate.

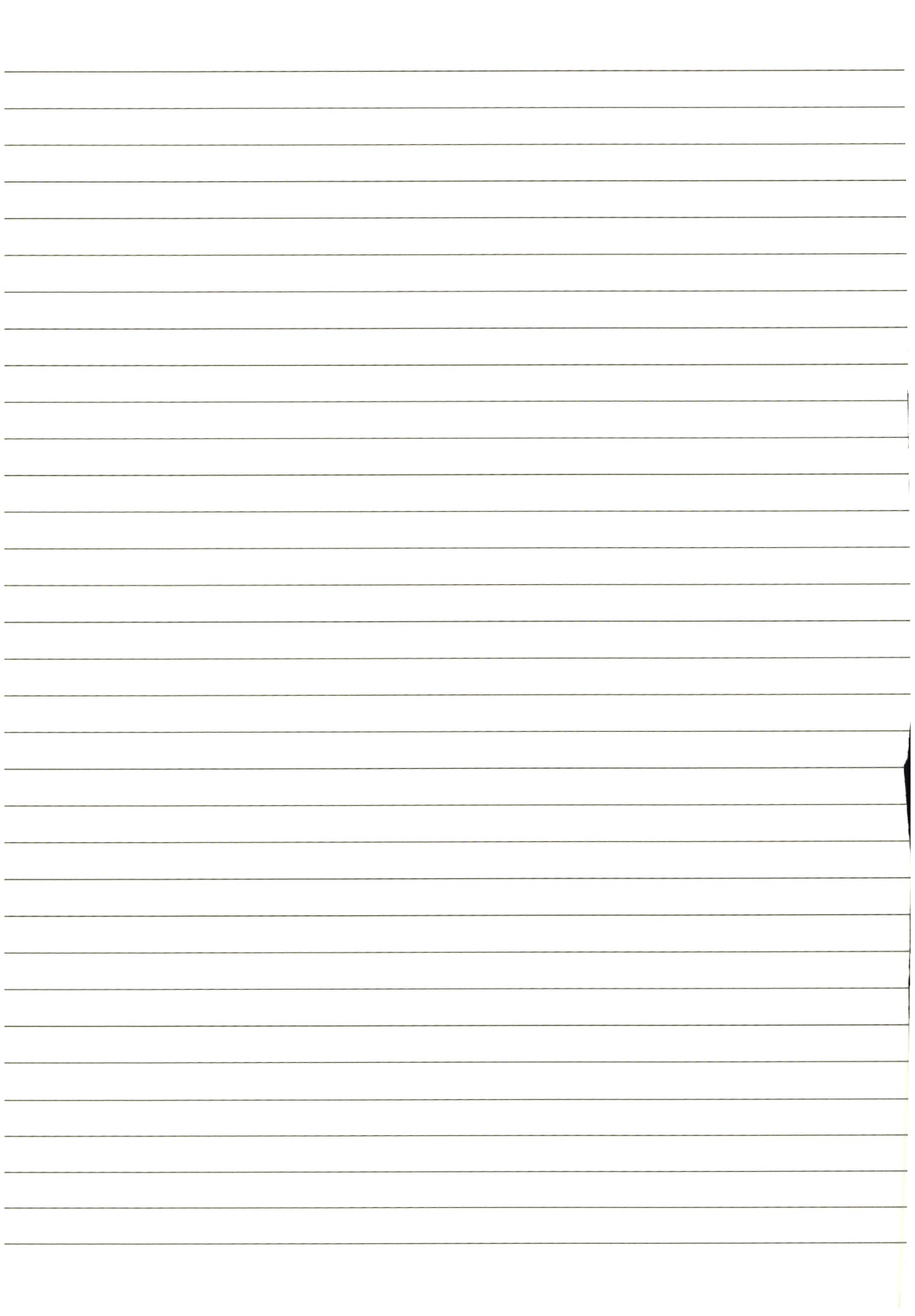
Resumption of consideration of the Bill(s) in question shall be determined by the House Business Committee in consultation with the Member in charge of the Bill.

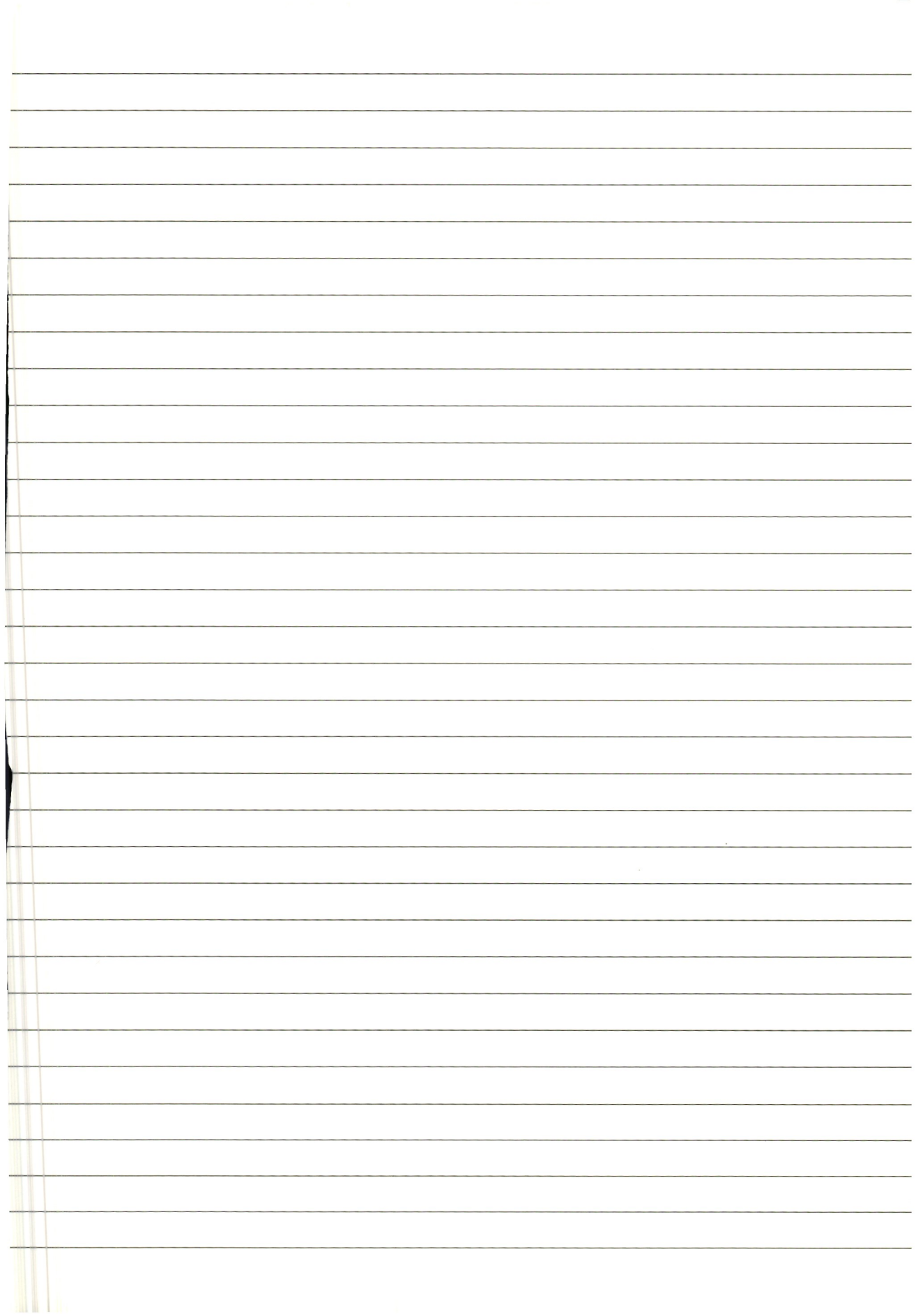
Third Reading

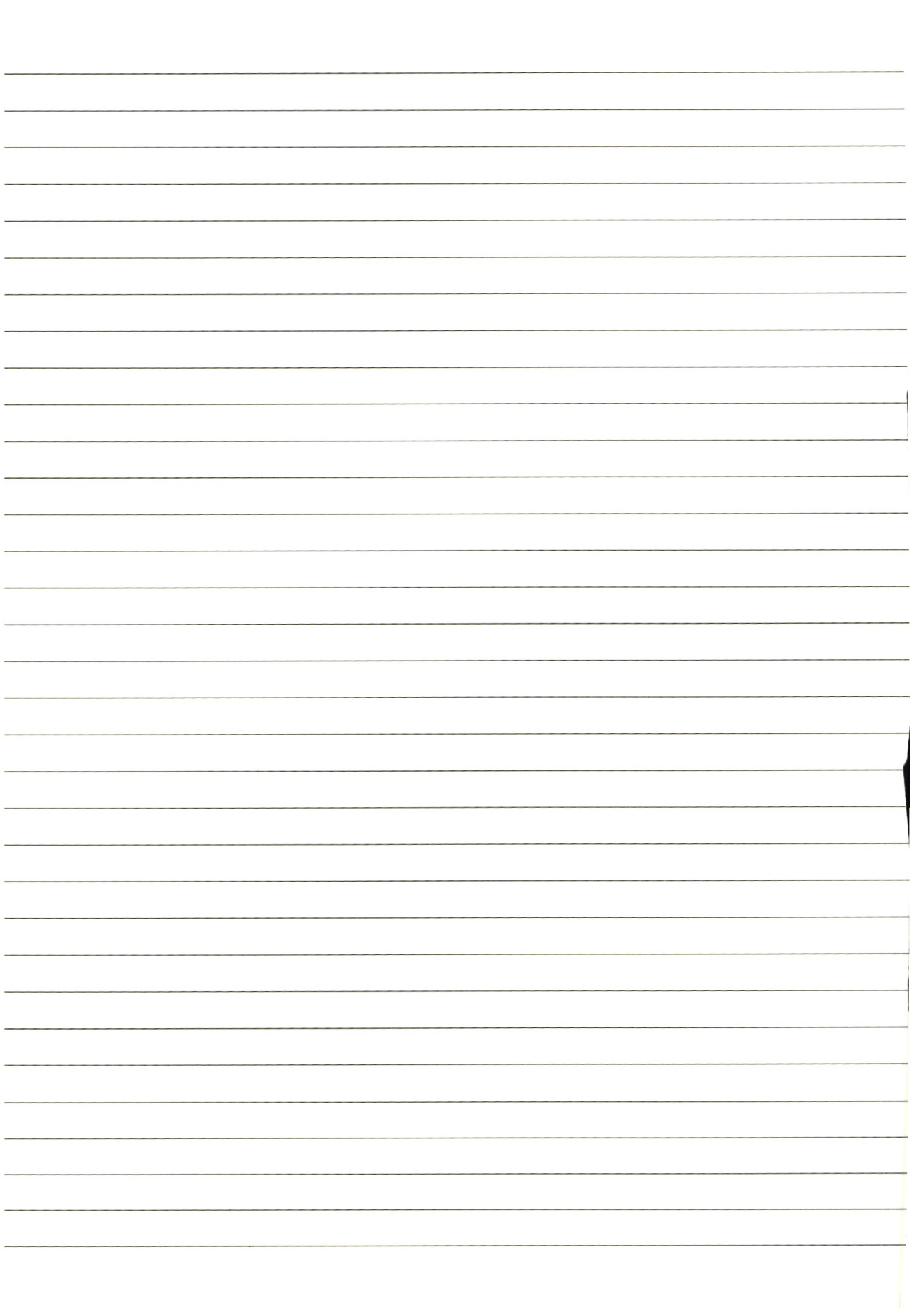
After reporting progress of a Bill and consequently agreement with the Report of Committee of the whole House by the House, the Speaker calls upon the Mover of the Bill to move the Motion of Third Reading which is couched as follows-

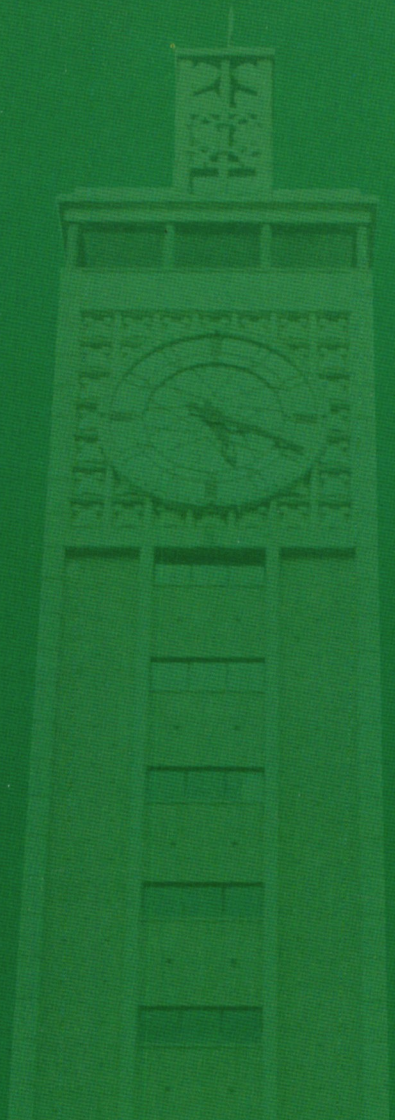
“That, the XYZ Bill be now read a Third Time.”

He/she will require a seconder to second the Motion. Subsequently the Speaker will proceed to propose the Question for the Third Reading and limited debate will ensue. At this stage, no amendment may be moved to this Motion, save for the amendment proposing to leave out the word “now” and adding at the end of the question the words “upon *this day*” (specify the day/date). At this stage, Members take a vote upon the Motion “That, xyz Bill be now read a Third Time.” If the result of the vote is in the affirmative, the Bill is deemed to have passed. If the Motion is defeated, the Bill is lost, meaning it has been rejected and may be introduced again in the next Session, or after the lapse of six months.









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