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TWELFTH PARLIAMENT  
(SIXTH SESSION)

THE NATIONAL ASSEMBLY

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**FIFTH REPORT  
OF  
THE PROCEDURE & HOUSE RULES  
COMMITTEE ON AMENDMENTS  
TO THE STANDING ORDERS**

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*(Submitted pursuant to Standing Order 264)*

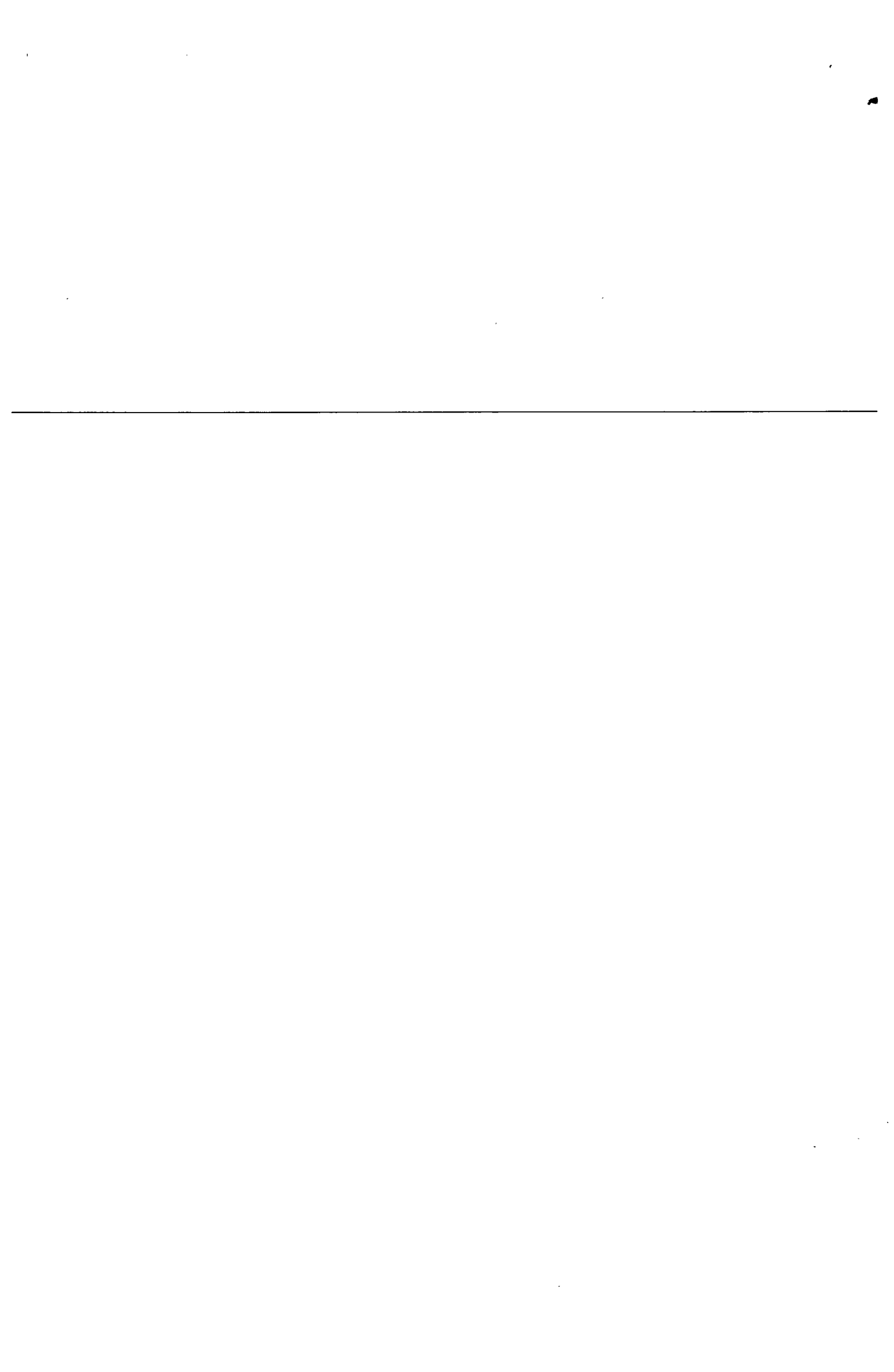
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THE NATIONAL ASSEMBLY	
DATE: 26 MAY 2022	Day: Thursday
TABLED BY: Hon. Moses Cheboi, CBS	
CHECKED BY: Getrude Chebet	

MP  
May 2022

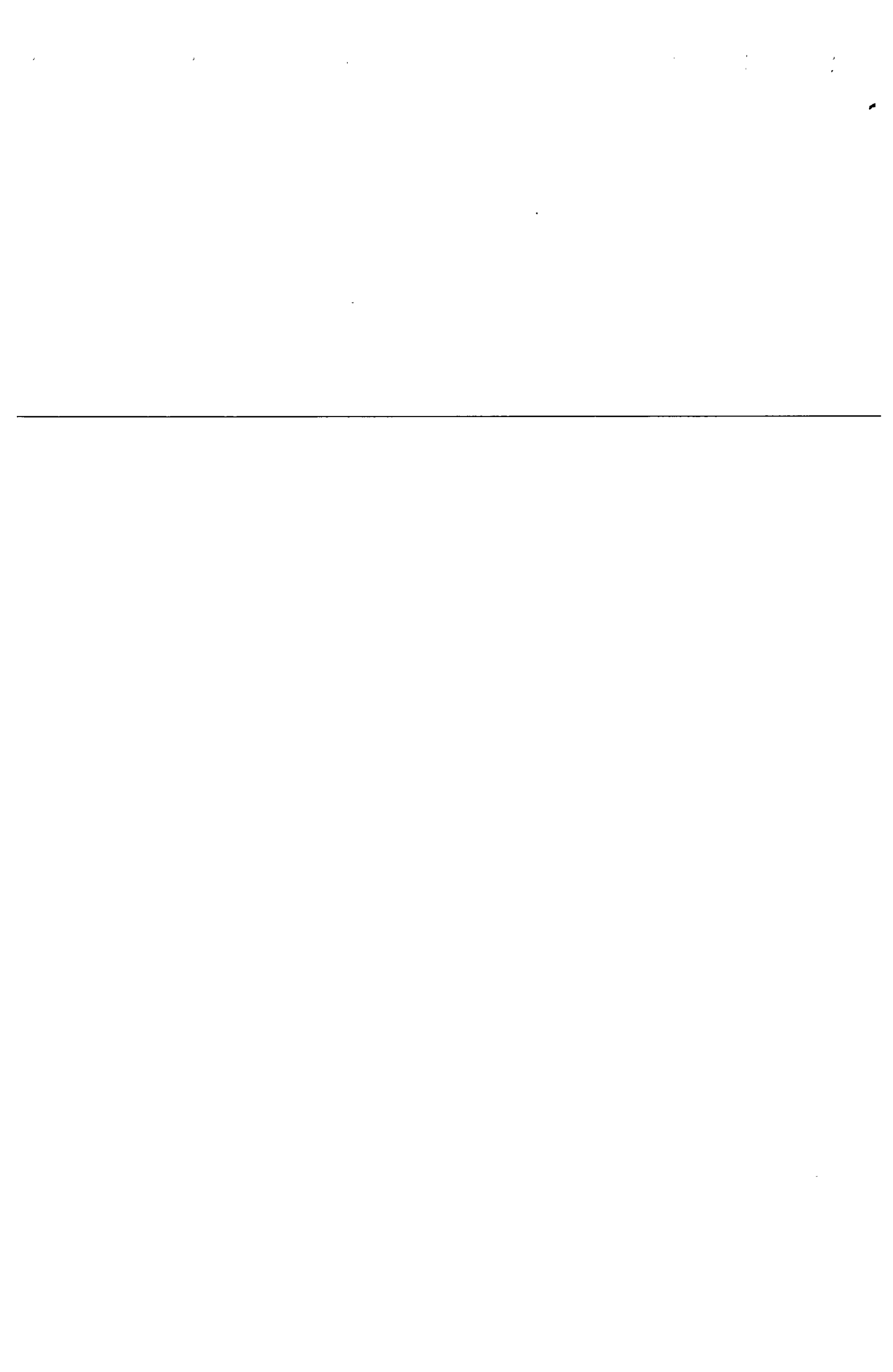
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## **PREFACE**

### **Hon. Speaker,**

The Procedure and House Rules Committee is established under Standing Order 208 to among other things, consider proposed amendments to the National Assembly Standing Orders. Further, **Standing Order 263(1)** stipulates that *‘A Member may, with the support of at least fifty other Members, request the Procedure and House Rules Committee to consider an amendment to the Standing Orders,’* while **Standing Order 264** provides that *‘at least once in every term of Parliament, not later than six months to the end of the term, the Procedure and House Rules Committee shall review the Standing Orders and make a report to the House recommending the Standing Orders, if any, to be amended.’*

### **Composition of the Committee**

The Committee currently comprises of the following Members –

1. **The Hon. Justin B.N. Muturi, EGH, MP – Speaker of the National Assembly (Chairperson)**
2. The Hon. Moses Cheboi, CBS, MP – Deputy Speaker
3. The Hon. Roselinda Soipan, CBS, MP – 1<sup>st</sup> Chairperson of Committees
4. The Hon. Patrick Mariru, MP – 2<sup>nd</sup> Chairperson of Committees
5. The Hon. Jessica Mbalu, CBS, MP – 3<sup>rd</sup> Chairperson of Committees
6. The Hon. Christopher Omulele, MP – 4<sup>th</sup> Chairperson of Committees
7. The Hon. John Olago Aluoch, CBS, MP
8. The Hon. Richard Maore Maoka, CBS, MP
9. The Hon. David Njuguna Kiaraho, MP
10. The Hon. Tom Joseph Kajwang’, MP
11. The Hon. Benson Orori Momanyi, MP
12. The Hon. Abdul Rahim Dawood, MP
13. The Hon. Zuleikha Hassan, MP

14. The Hon. Janet Jepkemboi Sitienei, MP
15. The Hon. Gathoni Wamuchomba, HSC, MP
16. The Hon. Beatrice Adagala, MP
17. The Hon. (Dr.) Pamela Ochieng Awuor, MP
18. The Hon. Alexander Kimutai Kosgey, MP

- 
19. The Hon. (Dr.) Robert Pukose, MP
  20. The Hon. Gladys Boss Shollei, CBS, MP
  21. The Hon. Safia Sheikh Adan, MP

### **Committee Secretariat**

The Committee Secretariat is composed of the following technical staff –

- |                       |  |
|-----------------------|--|
| 1. Mrs. Lucy Wanjohi  | Principal Clerk Assistant I/HoD - IHOD |
| 2. Mr. Mainah Wanjiku | Senior Clerk Assistant                 |
| 3. Mr. Ronald Walala  | Legal Counsel                          |
| 4. Ms. Getrude Chebet | Second Clerk Assistant                 |

To facilitate the work of the Procedure and House Rules Committee in discharging this mandate, the Clerk of the National Assembly established a Taskforce to undertake the review and report back to the Committee. The terms of reference for the Taskforce were –

1. Take views from the leadership of the House, Committee Chairpersons and other Members on areas of possible amendment;
2. Collate views from Directorates of the National Assembly, and other stakeholders including from staff of the National Assembly;
3. Collaborate with Senate Staff, where necessary, on areas of joint concern;
4. Regularly update the Deputy Clerks and the Clerk on the progress;

5. Regularly report to, and take instructions and guidance from, the Procedure and House Rules Committee on the review process;
6. Compile a report and schedule of proposed amendments to the Standing Orders and recommend any other review of the rules of procedure of the House; and
7. Any other incidental matters as may be assigned by the undersigned or the Procedure and House Rules Committee.

### **Composition of the Taskforce**

The Taskforce comprised the following officers –

- |     |                           |  |
|-----|---------------------------|--|
| 1.  | <b>Mr. Samuel Njoroge</b> | <b>Director, Legislative &amp; Procedural Services – Team Leader</b> |
| 2.  | Mr. Peter Chemweno        | Director, Departmental Committees                                    |
| 3.  | Mr. Kipkemoi Arap Kirui   | D/Director, Legislative & Procedural Services                        |
| 4.  | Mr. Nicholas Emejen       | D/Director, Audit, Approp. & Other Select Cmmts.                     |
| 5.  | Ms. Jeniffer Ndetto       | Deputy Director, Legal Services                                      |
| 6.  | Mr. Joash Kosiba          | Principal Fiscal Analyst   |
| 7.  | Mr. Noah Too              | Principal Clerk Assistant  |
| 8.  | Ms. Susan Maritim         | Principal Clerk Assistant  |
| 9.  | Mr. Mainah Wanjiku        | Senior Clerk Assistant/PHRC  |
| 10. | Mr. Ronald Walala         | Legal Counsel/PHRC   |
| 11. | Mr. Victor Weke           | Senior Clerk Assistant   |
| 12. | Dr. Donald Manyala        | Research Officer   |
| 13. | Ms. Getrude Chebet        | Second Clerk Assistant/PHRC  |

### **Proposals reviewed**

The Taskforce received proposals to amend the Standing Orders from Committees, individual Members, Directorates and Departments in the National Assembly as follows –

- a) **The Constitutional Implementation Oversight Committee (CIOC)** on *raising of points of order; lapsing and re-introduction of Bills; proposed expediting of the processing of Bills and proposed incorporation of the CIOC in the Standing Orders.*
- b) The Member for Garissa Township, **the Hon. Aden Duale, EGH, MP** regarding, amongst other proposals, *the place of Omnibus Bills in the legislative process; proposed strengthening of leadership offices; the consideration of Constitution of Kenya Amendment Bills; and handling of Members' personal data;*
- c) **The Parliamentary Caucus on Business & Economy** regarding the *handling of treaties by Parliament.*
- d) **The Hon. Patrick Musimba, MP** on the *proposed introduction of a parallel debating chamber and recognition of independent Members in the definition of a parliamentary party.*
- e) **The Hon. John Kiarie, MP** on, among other things, *proposed strengthening of leadership offices; the consideration of Constitution of Kenya Amendment Bills; and handling of Members' personal data.*
- f) **The Hon. Zuleikha Hassan, MP** on the access to the Chamber by infants being cared for by a Member;
- g) **The Hon. Caleb Kositany, MP** to amend sitting hours of the House;
- h) **The Hon. Millie Odhiambo, MP** on, among other areas, proposed ranking of Members and recognition of caucuses;
- i) The Speaker's Communication of 9th June 2020 on *Entitlement of Slots in Select Committees and Discharge of Members from Committees;*  
and

- j) Varied proposals from various Directorates and Departments: Legislative & Procedural Services, Departmental Committee Services, Legal Services, and Parliamentary Budget Office.

Notably, whilst a call for submission of views was made to the public by way of newspaper adverts, none was received as at the conclusion of this exercise.

The Taskforce also considered amendments initiated internally on procedural developments and other issues noted during the life of the current Parliament, and made appropriate recommendations as part of the proposals by Directorates/Departments.

Upon completion of review of the Standing Orders, the Taskforce presented its Report to the Procedure and House Rules Committee on 24<sup>th</sup> May 2022 for consideration by the Committee.

The Committee comprehensively reviewed the proposed Taskforce report and proposed text and made observations, additions and refinements, before adopting the report for consideration by the House.

Appended to this report is the text of the proposed amendments to the Standing Orders (First Schedule), a Communication from the Chair requesting for submissions to the Procedure and House Rules Committee submissions from Members and Directorates and minutes of the Committee on the consideration of the proposed amendments.

I wish to thank the office of the Clerk for the support accorded to the Committee in facilitating its work. It is therefore my pleasure to present this Report for consideration and adoption by the House.



.....  
**THE HON. MOSES CHEBOI, CBS, MP**  
**DEPUTY SPEAKER OF THE NATIONAL ASSEMBLY**  
**For: CHAIRPERSON, PROCEDURE & HOUSE RULES COMMITTEE**

*Thursday, May 26, 2022*

## CHAPTER 1: INTRODUCTION

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### 1.1 Background

1. Article 124 of the Constitution of Kenya permits each House of Parliament to “... make *Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.*” In parliamentary practice, *Standing Orders*, also known as rules of procedure, regulate the proceedings of a legislative body and govern the procedures to be adopted in carrying out the mandate of that body. By practice, *Standing Orders* do not lapse at the end of a session or a term of Parliament and thus the continuing or “standing” nature of these rules. *Standing Orders* remain in force until the House suspends, changes or repeals them, through amendment or review.
2. As parliamentary environments keep evolving, regular reviews of the *Standing Orders* ensure that the House and its committees continue to operate with efficacy and relevance adapting to the circumstance of the time. Continuous review and improvement allow for refinement of procedures and keeps pace with emerging trends. It is observed that in most parliamentary jurisdictions, reviews of the *Standing Orders* are conventional considering the ever changing landscape in political governance. Nonetheless, the changes may be necessitated by not only the prevailing political organization of the country but also socio-economic realities of the time.
3. An example of this was experienced in 2020 when the National Assembly realigned its procedures in response to the COVID-19 global pandemic. The House amended its *Standing Orders* to include a new Part on the *Conduct of Proceedings in Exceptional Circumstances*. The amendment sought to provide for the conduct of plenary and Committee sitting during periods when physical sittings of the House or Committees may not be possible including *declaration*

*of an epidemic, pandemic, extreme natural phenomena, pestilence or an act of terrorism.*

4. Standing Orders are typically derived from four main sources –
  - (a) **Parliamentary practice**, being matters established over the years that do not require to be formally written down or stated;
  - (b) **General rules** of conduct of business that are altered from time to time by the House;
  - (c) **Rulings** from the Chair and precedents, which give guidance on new or emerging areas of procedure; and
  - (d) **Constitutional provisions and Statute** governing how the House conducts proceedings on particular/specific matters e.g. the legislative process, financial procedures, approval of appointment of persons to State offices, etc.

## **1.2 Current Review of the Standing Orders**

5. Pursuant to Standing Orders 262 and 263, the rules of procedure may be amended at any time as may be proposed by the Procedure & House Rules Committee, or by the initiative of a Member supported by at least fifty other Members.
6. Additionally, Standing Order 264 provides for the periodic review of the Standing Orders by the Procedure & House Rules Committee at least once every term of Parliament. The current comprehensive termly review of the National Assembly Standing Orders is the sixth such review since Kenya gained independence in 1963. In order to appreciate the significance of the process, below is a summary of the previous review exercises.

### **1.3 Previous reviews of the Standing Orders in the Parliament of Kenya**

#### **1.3.1 Pre-1966 and the First comprehensive Review of the Standing Orders**

7. The first comprehensive review of the Standing Orders of the House was made in 1966 following the amendment of the Constitution to abolish the Senate thereby transitioning Parliament from bicameralism to unicameralism. The Senate was abolished with its membership being combined with that of the House of Representatives to form a unicameral legislature, the National Assembly. Notably, the 1963 Constitution had established a Senate that consisted of 41 senators elected for six years, with one-third of the members retiring every two years.
8. With this change, there was need to comprehensively review the parliamentary procedures to reflect the new setup. That review focused mainly on deleting procedures relating to the relations between the two Houses and incorporating new procedures to entrench unicameralism. At the time, the Standing Orders booklet, which was red in colour, was barely 15 pages. Despite the size, available literature and *Hansard* proceedings of the House at the time indicate that it was not easy for most Members to recall or understand most of the rules of procedure.

#### **1.3.2 The 7<sup>th</sup> Parliament: 2<sup>nd</sup> comprehensive review**

9. The period between 1966 and 1991 saw minimal amendments to the rules of procedure. However in 1991, following the repeal of the Article 2A of the Constitution of Kenya to re-entrench multi-party politics in the country, a second major review was undertaken. The amendment of the Standing Orders sought to facilitate transaction of business in the House bearing in mind the multi-party arrangement that arose.

10. The offices of the Leader of Official Opposition, Opposition Whips and Opposition or “back-bench days” were some of the new provisions that were incorporated just before the commencement of the 7<sup>th</sup> Parliament in 1992. The composition and chairing of the Public Accounts Committee (PAC) was also changed to recognize the evolving times. This was the Second comprehensive review of the Standing Orders of the National Assembly.
11. With the continued clamour for constitutional reforms, mostly from within Parliament, further amendments were moved in a bid to allow more space for heated debate in the Chamber, invigorate the Committee system, recognize political party caucuses and provide facilities to parties and indeed, to Parliament. In 1997, towards the end of the 7<sup>th</sup> Parliament, amendments were made to the Standing Orders to establish the Public Investments Committee and Departmental Committees as we know them today. Notably, the Committee on Estimates was also deleted from the Standing Orders on 10<sup>th</sup> November, 1997 as it was felt that the Committee was “meddling too much” into the national budgeting process, which was essentially a prerogative of the Executive.

### **1.3.3 The 8<sup>th</sup> Parliament: A more responsive Parliament**

12. In 1998, during the 8<sup>th</sup> Parliament, the clamour for constitutional reforms had reached its peak and saw renewed vigour for review of the Standing Orders. The rules were seen as more inhibitive than facilitative for Members and therefore requiring a makeover. This view was notably shared across the political segments in the House. The focus of the proposed changes was mostly on demystifying Parliament, allowing gender responsive rules, invigorating Committees, opening up Chamber proceedings and Committees to the public, including allowing live broadcast of proceedings and institutionalizing multi-partyism in all Parliamentary aspects.

13. At that time, there was a general expectation that a new Constitution would be in place before the end of the term of the 8<sup>th</sup> Parliament. In this regard, the much needed comprehensive review of the rules of procedure of the House was deferred to await enactment of a new Constitution. Nonetheless, by the time the House was dissolved on 25<sup>th</sup> October 2002, a new constitution had not been promulgated and this derailed the intended comprehensive review of the Standing Orders. A draft report on the review status was compiled capturing the memoranda and proposals that had been received from Members, political parties, the public and officers of the House.
- 

#### 1.3.4 The 9<sup>th</sup> Parliament - The uncompleted 3<sup>rd</sup> comprehensive review

14. The Draft Report of the 8<sup>th</sup> Parliament became the primary document for the third comprehensive review of the Standing Orders that had commenced in the 8<sup>th</sup> Parliament. On June 20, 2006, a sub-committee of the Standing Orders led by the then Deputy Speaker, Hon. David Musila and comprising of Hon. Paul Muite, the late Hon. Otieno K'ajwang, the late Sen. Mutula Kilonzo, Hon. Nyagah Wambora, nominated Members Hon. Njoki Ndung'u and Hon. Esther Keino was established. 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. Notably, this was the first time that proposed amendments were initiated and driven by Members of the House and not by the Executive, as had been the practice.
15. The most notable amendment during this review was inclusion of the process of introducing Bills by private Members. This was done by removing the cumbersome requirement of **a motion seeking leave** to introduce a Bill. Other areas included in the review were –

- (a) *recognition of political party caucuses;*
- (b) *allowing recall of the House during recess by the Opposition, so long as they could garner signatures of a majority of the Members;*
- (c) *opening up of Committees and the House to the public;*
- (d) *recognition of visiting dignitaries and allowing them to address the House;*
- (e) *petitioning of Parliament, which was seldom done those days;*
- (f) *insertion of Kiswahili prayer in the rules of procedure;*
- (g) *introduction of requests for statements to Ministers;*
- (h) *limitation of speaking time on debate on Bills, committee reports, and sessional papers which were hitherto unlimited; and*
- (i) *modest changes on the budgeting process to increase the role of Parliament.*

16. It was also during this review that simple language was adopted. 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 made more gender-responsive, from use of such phrases as “**he**” to “**he or she**” or “Member”. Lady Members were also allowed to carry handbags ‘*of reasonable size*’, into the House for the first time.

17. There was also the agreement to change the motto of the House, which was inscribed at the top of the bar of the House and read as “***For the welfare of society and the just government of men***”. In the end, the version of Standing Orders advanced in the 9<sup>th</sup> Parliament was lauded as the Standing Orders of the 21<sup>st</sup> Century. The Report had however not been tabled by the time the House was dissolved on 22<sup>nd</sup> October 2007. The Third comprehensive review of the Standing Orders was therefore not concluded until the subsequent Parliament.

### 1.3.5 The 10<sup>th</sup> Parliament – Conclusion of the 3<sup>rd</sup> Comprehensive Review

18. The amendment of the Standing Orders in the 10<sup>th</sup> Parliament was mainly meant to incorporate the amendment of the Constitution to include the coalition government and the subsequent National Accord.
- ~~19. Under the leadership of the then Speaker, Hon. Kenneth Marende, in its first~~ meeting of May 30, 2008, a six-Member sub-committee comprising of the then Deputy Speaker and led by the Speaker's Panel Members; Hons. Ekwee Ethuro, Gitobu Imanyara and Prof. Margaret Kamar (who was later replaced by Hon. Joyce Laboso), was mandated to consider progress made by the 9<sup>th</sup> Parliament on the review of the Standing Orders, receive submissions and submit a report to the Committee on the review of the Standing Orders.
20. The Committee enriched the report prepared in the 9<sup>th</sup> Parliament by including rules on parliamentary broadcasting, and opening up House plenary sessions and Committees to the public. Also included was the recognition of Whips and electronic means of tabling Papers in the House, amongst other measures. There was also the introduction of *Prime Minister's Time* where the Prime Minister would make a Statement or respond to questions put to him relating to matters of Government policy or the general performance of the Government and its agencies.
21. Following the inclusion of Party Whips, the membership of the House Business Committee (HBC) expanded to twenty-one from eleven. Additionally, the quorum of the Public Investments Committee (PIC) and Public Accounts Committee (PAC) was reduced from 5 to 3 Members. Six additional Committees were also formed as follows –
  - (a) *Local Authorities and Funds Accounts Committee (LAFAC);*
  - (b) *Budget Committee;*
  - (c) *Committee on Delegated Legislation;*

- (d) *Committee on Implementation;*
- (e) *Committee on Equal Opportunity; and*
- (f) *Library Committee.*

**22.** The number of Departmental Committees was increased from 8 to 12 by splitting some of the Committees with wider mandates such as *Health, Housing, Labour, Sports and Social Welfare* which was, at the time, one Committee. The eventual adoption of the report on 8<sup>th</sup> December 2010 marked the conclusion of the 3<sup>rd</sup> Comprehensive review of the Standing Orders.

### **1.3.6 The 10<sup>th</sup> Parliament – The new Constitution and the 4<sup>th</sup> comprehensive review**

**23.** Following the promulgation of the Constitution of Kenya in 2010, there was need to realign the Standing Orders to the new Government organization. This marked the 4<sup>th</sup> comprehensive review of the Standing Orders. The process mainly focused on actionable aspects of the Constitution that gave new roles to Parliament as opposed to new ways of doing things. The Procedure & 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, among other things –

- (a) *the process of vetting and removal of persons;*
- (b) *inclusion of the Committee on Appointments;*
- (c) *update of the budgeting process;*
- (d) *inclusion of provisions reflective of bicameralism; and*
- (e) *phasing out of Question Time, etc.*

**24.** It is worth noting that the process was mostly initiated by officers as opposed to the Members themselves. At the time, the House seemed more engrossed in other equally important business such as the enactment of over 210 pieces of legislation, which had to be passed within the first 2 years following the

promulgation of the new Constitution, and the vetting of persons to be appointed to new offices, such as the Chief Justice, the Attorney General, the Director of Public Prosecutions, the Auditor-General, the Controller of Budget, and Members of various Constitutional Commissions.

25. There was an evident rush to conclude the review of the Standing Orders of the National Assembly and the making of new rules for the incoming Senate. The report was tabled in January 2013, a few weeks before elections, concluding the 4<sup>th</sup> Comprehensive Review of the Standing Orders.
- 

### 1.3.7 The 11<sup>th</sup> Parliament - the 5<sup>th</sup> comprehensive review

26. At the time of review in the 11<sup>th</sup> Parliament, the Standing Orders were viewed by some Members, and indeed by some courts of law, as failing to fully actualize certain provisions of the Constitution. Some of the areas cited included provisions relating to—
- (a) *the financial procedures;*
  - (b) *the legislative interface between the two Houses of Parliament; and*
  - (c) *the processes of removal of persons from office, including the removal of the Speaker.*
27. In addition, various Members and other stakeholders **had proposed** a review of the following aspects –
- (a) *discharge of Members from Committees;*
  - (b) *expansion of the role of Departmental Committees to include the determination of “Money-Bill” aspects under Article 114 of the Constitution;*
  - (c) *introduction of a parallel debating chamber for conducting Second Reading of Bills;*

*(d) amendments to the Standing Orders of both Houses regarding media related activities in the precincts of Parliament; and*

*(e) enhanced public participation in the legislative process and Parliamentary business.*

28. The report of the review of the Standing Orders was adopted in 2017 and saw the inclusion of a number of the amendments mostly those seeking to align with the Constitution and the some of the areas noted above.

### **1.3.8 The 12<sup>th</sup> Parliament - the 6<sup>th</sup> comprehensive review**

29. The current review process may be said to be 6<sup>th</sup> comprehensive review of the National Assembly Standing Orders. The process commenced in August 2021 following the establishment of the Taskforce on the review on the rules of procedures. The Taskforce worked under the guidance of the Procedure and House Rules Committee to collate views from Committees, Members and other stakeholders on possible areas of amendment. The proposed areas of amendment are explained below.

30. Proposed amendments of particular mention during this review were –

- (a) The increase of the Chairperson's Panel from four (4) to six (6);
- (b) Increase of the period for Committees to report of Bills from the current twenty-one days to thirty days;
- (c) The provision of two (2) Vice-Chairpersons for every Committee;
- (d) The splitting of the Public Investment Committee to create two (2) additional Committees with a sunset provision;
- (e) The creation of additional Departmental Committees to increase specialization and efficiency; and
- (f) The creation of a Committee to examine matters relating to public debt and privatization.

## CHAPTER 2: OUTLINE OF PROPOSED AMENDMENTS TO THE STANDING ORDERS

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### 1.1 Introduction

1. On 23<sup>rd</sup> September 2021, the Speaker issued a Communication notifying Committees, individual Members as well as members of public of the review process that was being undertaken by the Procedure and House Committee on the National Assembly Standing Orders. The stakeholders were to proffer amendment and/or their views of such areas as –

- (a) The system of governance and bicameral nature of our legislature;
- (b) The subsisting committee system focusing on areas such as size, composition, operations, effectiveness and efficiency of our Committees;
- (c) Areas of improvement in the general parliamentary oversight focusing on any aspects or areas that may not have received due attention, including but not limited to our budget processes and oversight mechanisms over the national debt;
- (d) The place of and mechanisms for consideration of the reports submitted to the House by Cabinet Secretaries under Article 153(4)(b) of the Constitution;
- (e) The place of Constitutional Commissions & Independent Offices and their place in our rules of procedure including the consideration of their reports submitted to the House pursuant to the provisions of Article 254 of the Constitution; and,
- (f) Consideration of the various Speaker's rulings, as well as judicial decisions that have a bearing on the procedures of the House.

2. Submissions on proposed amendments were received from –

- (i) The Constitutional Implementation Committee (CIOC);

- (ii) The Member for Garissa Township, the Hon. Aden Duale, EGH, MP;
- (iii) The Parliamentary Caucus on Business & Economy;
- (iv) The Hon. Patrick Musimba, MP on the introduction of a parallel debating chamber and recognition of independent Members in the definition of a parliamentary party;
- (v) The Member for Dagoretti South, the Hon. John Kiarie, MP;
- (vi) The Member for Kwale County, the Hon. Zuleikha Hassan, MP;
- (vii) The Member for Soy, the Hon. Caleb Kositany, MP;
- (viii) The Member for Suba North, the Hon. Millie Odhiambo, MP;
- (ix) The Speaker's Communication of 9<sup>th</sup> June 2020 on *Entitlement of Slots in Select Committees and Discharge of Members from Committees*; and
- (x) Proposals from various Directorates and Departments: Legislative & Procedural Services; Departmental Committee Services; Audit, Appropriation & Other Select Committees; Legal Services; and the Parliamentary Budget Office.

3. The Committee considered the collated submissions on the amendments proposed to the Standing Orders and made corresponding recommendations and proposed text of amendments. The final proposed text is attached to this report as the *First Schedule*.

#### **1.2 PROPOSALS BY THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE**

4. The Constitutional Implementation Oversight Committee (CIOC) submitted its proposed amendments to the National Assembly Standing Orders on 19<sup>th</sup> October 2021. In the submissions, the Committee proposed the following amendments –

**a) Standing Order 83: Points of Order**

5. That Standing Order 83 (Points of Order) be amended to require that a Member wishing to raise a point of order should rise in his/her place rather than using the electronic delegate system currently in use. In the present scenario, a Member raises a point of order by pressing the intervention button to catch the *'Speaker's eye.'*
- 

**Justification:** The CIOC observed that this would ensure openness and transparency and avail Members who have queries on procedure an opportunity to have their say.

**Observation:** The Committee observed that while Standing Order 83 provides for the raising of points of order by Members, the practice of rising to catch the Speaker's eye was in place in the Parliaments preceding the 11<sup>th</sup> Parliament. This was however discontinued with the installation of the current electronic chamber systems. In the UK, 'catching the Speaker's eye describes the way in which MPs let the Speaker know that they want to speak during a debate or question time. A Member attracts the attention of the Speaker by standing up briefly every time the next Member is about to be called and may only speak if called to do so by the Speaker.

**Recommendation:** This has been a parliamentary practice that was changed only recently in the Parliament of Kenya with the adoption of the electronic delegate units. The Committee proposed that Standing Order 83 be amended by inserting the words "by rising in the Member's place" immediately after the words "Any Member may" in paragraph (1).

### **b) Standing Order 141: Lapse and Re-introduction of Bills**

6. That Standing Order 141 (Lapse and Re-introduction of Bills) be amended to require that a Bill, the consideration of which has not been concluded at the end of the **term of Parliament** should not lapse but may be taken over by a Committee of the House or any Member at the stage at which the Bill had reached, with the written consent of the original mover, and subject to its republication.

**Observation:** The Committee noted that this may not be practicable in the existing legislative environment. However, to ensure continuity of Bills, the Committee proposed that should a Member be re-elected and the Member had sponsored a Bill which had been read a First time, the Bill ought to be exempted from pre-publication scrutiny.

**Recommendation:** the Committee proposed that that **Standing Order 114A** be amended to allow for this exemption.

### **c) Incorporation of the CIOC in the Standing Orders**

The Committee proposed that the Constitutional Implementation Oversight Committee be incorporated in the Standing Orders. The Committee proposed the following text –

#### **Constitutional Implementation Oversight Committee**

**212E. (1)** The Constitutional Implementation Oversight Committee established under section 4 of the Sixth Schedule to the Constitution shall consist of a Chairperson and not more than twenty-two other Members.

(2) In the membership of the Constitutional Implementation Oversight Committee, parties other than parliamentary parties forming the national government shall have a majority of one.

(3) The Committee shall be responsible for the following functions in addition to those listed in section 4 of the sixth schedule to the Constitution:

- (a) Monitoring and Implementation of the Constitution;
- (b) Consideration of Bills to amend the Constitution after first reading and in accordance with Standing Orders 127.
- (c) Oversee the day to day operations of Constitutional Commissions including but limited to the above:
  - (i) *Investigate, inquire into, and report to all matters relating to the mandate, management, activities, administration, operations and estimates of the Constitutional Commissions*
  - (ii) *Investigate, inquire into all matters relating to the Constitutional Commissions, as they deem necessary and may be referred to them by the House;*
  - (iii) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve:*
  - (iv) *Consider reports of the Constitutional Commissions submitted to the House pursuant to article 254;*
  - (v) *Examine any questions by Members on a matter within its Mandate.*

**Observation:** By practice, only the Committees established by the Standing Orders are contained therein. Any other committee established by statute or other ways with express mandates are not contained in the Standing

Orders. Examples include the Committee on Powers & Privileges and the National Government Constituencies Development Fund Committee.

**Recommendation:** The Committee declined the proposal since the Constitutional Implementation Oversight Committee is derived from the Constitution and admitting the request by the Committee would amount to amending the Constitution through the Standing Orders.

#### **d) Expediting of the Processing of Bills**

7. The Committee proposed that the processing of Bills in the House be expedited so that Bills prepared by Members can be presented in the House for consideration without delay. In this regard, the Committee proposes that –

- (i) The Standing Orders be amended to reduce the bureaucracy involved at **pre-publication stage** and that after the Speaker has approved a Bill for publication, the Bill should be sent for **publication** within seven (7) days and be introduced for **first reading** on the next sitting day after maturity of the Bill;

**Observation:** This is already in practice except for Bills concerning counties. The Committee therefore proposed that the matter be left to practice.

- (ii) After first reading, the Bill should be introduced for **second reading within 30 days** of tabling of the Committee report or in accordance with Standing Order 127(4).

**Observation:** Whereas Standing Order 127 provides for a period within which a Committee ought to have submitted a report of a Bill, the scheduling of the commencement of debate on Second reading is consequent on other circumstances in the House. It is for this reason that

the House Business Committee is mandated to schedule business for the House. In carrying out this mandate, the HBC takes into consideration a myriad of prevailing factors to determine business of the House for any particular day. The Committee therefore proposed that this practice be retained as is.

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- (iii) **Standing Order 114** be amended to require a Committee to which a legislative proposal is committed for pre-publication scrutiny to consider the legislative proposal and submit its report to the Speaker within 30 days.

**Observation:** This proposal was adopted as it had also been proposed by other stakeholders.

**Recommendation:** That Standing Order 114 be amended to reflect this increased period.

### 1.3 PROPOSALS BY THE PARLIAMENTARY CAUCUS ON ECONOMY & BUSINESS

8. By way of a letter dated 17<sup>th</sup> January 2022, the Chairperson of the Parliamentary Caucus on Economy & Business, the Hon. Jude Njomo, MP submitted a memorandum seeking the establishment a select committee on ratification of economic treaties. The Parliamentary Caucus observed that the Treaty Making and Ratification Act, 2012 is the applicable law that gives effect to the provisions of Article 2 (6) of the Constitution. Further, that section 6 & 7 of the Act requires the State to take into account the regulatory impact of any proposed treaty and the Cabinet Secretary to submit to the Cabinet the treaty, and memorandum outlining –

- (a) *The national interests which may be affected by the ratification of the treaty;*
- (b) *Financial implications;*
- (c) *Implications on matters relating to counties; and;*

*(d) The views of the people on the ratification of the treaty.*

9. The Caucus observed that this process, especially on public participation, is largely ignored. In the consideration of Treaties by Parliament, the Caucus has identified the following as shortcomings in the process –

- a) The Cabinet Secretary does not, from the onset, conduct research to establish the national interests which may be affected by a treaty before negotiation of the Treaty commences,
- b) Parliament is not involved in the treaty negotiation processes against the practice in other jurisdictions where the Executive works closely with the legislature in the initial stages,
- c) Parliament only gets involved after a treaty has been signed by the Cabinet Secretary or when it is about to be signed.
- d) Parliament debates the treaty but has no powers to amend it or propose amendments.

10. In order to address the identified shortcomings, the Caucus proposed the **establishment of a select committee on ratification of economic treaties**. This will help to address the above identified shortcomings and ensure the oversight of the Executive in carrying out the following issues –

- (i) policy coherence for development;*
- (ii) the sovereign right to regulate in the public interest;*
- (iii) inclusivity (including broad public consultation);*
- (iv) transparency;*
- (v) sustainable development and suitability;*
- (vi) economic impact assessment;*
- (vii) social and environmental impact assessment;*
- (viii) respect for regional integration goals and strategies;*

(ix) *respect for the Constitution and all international and regional agreements and instruments (including soft law) that Kenya has either ratified or signaled its support, and other related matters.*

11. The Caucus noted that there is no clear manner of involvement of Parliament in the treaty making process including the manner of entering reservations.

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**Observation:** The Committee noted that –

- (i) whereas the Treaty Making and Ratification Act, 2012 makes reference to the Standing Orders, there was no procedure provided for in the Standing Orders for consideration of treaties and hence there was need to amend the Standing Orders to make provision for the procedure for consideration of treaties including the procedure for effecting reservations to a treaty.
- (ii) The establishment of a standalone committee on treaties may be considered in future.

**Recommendation:** The Committee recommended that the Standing Orders be amended by inserting a new Part on **Ratification of Treaties** to provide for the ratification of treaties by the House –

## **PART XXI: Ratification of Treaties**

### **Ratification of Treaties**

**170A** (1) A treaty submitted to the National Assembly for ratification shall be laid on the Table of the House and stand committed to the relevant Committee for consideration.

(2) The Committee shall undertake public participation before submitting its report to the House.

(3) In addition to the information required to be submitted to National Assembly under written law, the Committee may require the relevant Cabinet Secretary to submit further information, including –

- (a) social and environmental impact of the treaty in the short-term, medium-term and long-term; and,
  - (b) nature and evidence of any public participation conducted on the treaty.
- (4) The report of the Committee to the House shall include-
- (a) an examination of the treaty and the memorandum prescribed under the law relating to treaty making and ratification and any other information;
  - (b) information on the views of the people on the ratification of the treaty emanating from public participation conducted by the Committee;
  - (c) the findings of the Committee on the treaty and any other information the Committee may deem necessary.
  - (d) a recommendation that the House -
    - (i) approves the ratification of a treaty, or
    - (ii) approves the ratification of a treaty with reservations, or
    - (iii) rejects the ratification of a treaty.
- (5) In approving ratification of a treaty with reservations, the House shall specify the affected provisions of the treaty and the proposed text of each reservation, which may include prescription of timelines within which an obligation is to be fulfilled before implementation of the Treaty.
- (6) Upon decision of the House on a treaty, the Clerk shall notify the relevant Cabinet Secretary within seven days and enter the information in the register of treaties.

**1.4 PROPOSALS BY THE MEMBER FOR GARISSA TOWNSHIP, THE HON. ADEN DUALE, EGH, MP**

12. In a letter dated 5<sup>th</sup> January 2022, the Member for Garissa Township Constituency, the Hon. Aden Duale, EGH, MP submitted proposals to amend the Standing Orders in line with Standing Order 264. The preliminary observations and recommendations are discussed hereunder –
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**Proposals regarding the place of Omnibus Bills**

13. The Member for Garissa Township observes that omnibus Bills, being Bills that allow the House to amend several legislations or statutes at a go, have gained prominence and traction over time. The House has on a number of occasions considered and passed Omnibus Bills among them being the Tax Laws (Amendment) Bill Act, Statute Law (Miscellaneous Amendments) Bills, Finance Bills and several health-related Bills most of which have largely been from the Executive.
14. Nonetheless, the Hon. Duale noted that no Member has yet sponsored an Omnibus Bill largely due to misconceptions that such Bills can only emanate from the Executive and secondly that such Bills are often subject to challenge in court. He however observed that this is not the case and based on the court cases where omnibus Bills have been challenged, the grounds of contentions has always been inadequacy public participation rather than the form/nature of the Bills. In this regard, the Member for Garissa Township avers that when properly processed, including by adhering to the dictates of Article 118 of the Constitution, omnibus Bills can be a route through which the House can attain maximum efficacy in exercising its constitutional legislative function.
15. **Based on the foregoing, the Hon. Duale proposed that the Standing Orders be amended to entrench the process of introduction of omnibus**

**Bills, including by private Members. The amendment to provide, *inter alia* –**

- (a) when such Bills can be used;**
- (b) that such Bills should be referred to different Committees;**
- (c) for longer periods of public participation from the current 21 days as provided for in Standing Order 127 to 45 days to allow for adequate public participation.**

**Observation:** The Committee observed that in the current practice, the Speaker has from time to time committed Bills proposing the amendment of various statutes to different Committees. The proposal therefore would be seeking to codify the practice.

**Recommendation:** Amend Standing Order 127 by inserting the following after paragraph (2) –

- a. “(2A) Save for a Finance Bill, the Speaker may refer various provisions a Bill proposing to amend more than one statute in its principal provisions, to the relevant Departmental Committees in accordance with their mandates”**
- b. Despite paragraph (4), the Speaker may extend the period for public participation under paragraph (2A).**

### **Proposals regarding Strengthening of Leadership Offices**

16. Having served as the Leader of the Majority Party and in essence, the leader of government business in the House, the Hon. Duale observed that it was imperative for him to caucus with Members to articulate and present the party position on the legislative business in the House. He however noted that there existed no specified structures of engagement leaving it to self-initiative.

17. While comparing with other jurisdictions like the US Congress and the UK House of Commons, the Member observed that in these parliaments, there are structures to facilitate consultative meetings between the Leaders and the Members of the Congress and the House of Commons. These interactions offer an opportunity for the Leaders to explain the legislative agenda of the party and inform the Members on which legislative agenda to support in the House.

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18. **The Hon. Duale proposed the creation of appropriate structures to facilitate these engagements between parliamentary party leaders (majority & minority) and their Members.**

**Observation:** The Committee noted that the Standing Orders do not reflect the provisions of Article 108 of the Constitution on the establishment of the offices of the Leaders of the Majority and Minority Parties in the National Assembly and their order of precedence in the House. There was need to reflect this recognition by the Constitution and to facilitate the offices.

**Recommendation:** the Committee proposed that the Standing Orders be amended to insert a new Standing Order –

- (i) recognizing the establishment of the offices of the Leaders of the Majority and Minority Parties in the National Assembly and their order of precedence in the House pursuant to Article 108 of the Constitution; and
- (ii) requiring the Speaker to facilitate the Leaders of the Majority and Minority Parties in the National Assembly in the discharge of the business of the House on behalf of their parties or coalition of parties.

### **Proposals on the processing of Members' Personal Data**

19. The Hon. Duale notes that apart from the official Parliament website, there currently exists no database containing Members' personal data or information. There is hence need for Members' personal data to be codified by **amending the Standing Orders to provide that the Clerk shall keep and be the custodian of Members' personal data and further require the Clerk to regularly update the personal data.**
20. The proposed provision ought to require Members to provide personal data to the Clerk including the name of the Member, political party, constituency, committee(s) assigned, current and former leadership positions if any, education and professional experience (**optional**) and any other relevant information.

**Observation:** The Committee noted that this would help streamline the current management of Members' profiles/biodata and entrench the requirement for this data.

**Recommendation:** Insert the following New Standing Order 259B –

#### **Members' Biodata and Roll**

- 259B.** (1) At the commencement of every Parliament or following a by-election, a Member shall submit to the Clerk biodata in the prescribed form (Tenth Schedule – Members' Biodata) for purposes of facilitating the Member in the affairs of the National Assembly and public information.
- (2) A Member may at any time during the term of a Parliament update the information provided to the Clerk.
- (3) The Clerk shall keep custody of Members' biodata and regularly update the data whenever a Member submits information and may publish part of the information on the Parliamentary website.

(4) A Member shall be responsible for the accuracy of the information provided under this Standing Order.

(5) At least one month before the end of a term of Parliament, the Clerk shall publish in the *Gazette*, a Roll of Members who served in that Parliament in alphabetical order.

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### **Proposals on the processing of Legislative Proposals**

21. The procedure for processing of legislative proposals is provided for in Standing Order 114. The Hon. Duale observes that the experience of Members who have sponsored legislative proposals is that the current pre-publication scrutiny process is lengthy and prohibiting to Members wishing to legislate with some proposals taking up to three years in Committees. The Member contrasts the process with what obtains in the Senate where proposals seem to be processed faster as similar provisions do not exist.
22. The Member further observed that whereas the pre-publication scrutiny is a very critical process of “filtering wheat from the chaff”, it is imperative that Standing Order 114 be amended to allow the House to recall legislative proposals and the Speaker to approve the proposals for publication –
- (i) where the Budget & Appropriations Committee has considered a legislative proposal and recommended that the legislative proposal be proceeded with; and
  - (ii) where a Departmental Committee has delayed in the consideration of a legislative proposal within the timelines set out in Standing Order 114(7), being 21 days.
23. The Member also observed that this would only be a **codification** of an emerging practice as undertaken in 2019 when the Speaker recalled several legislative proposals that had stalled in Committees for unduly long periods

and approved their publication in furtherance of the legislative functions of the House.

**Observation:** The Committee noted that the codification of this practice may leave the House with little room for assessing the merits of various circumstances as they arise.

**Recommendation:** The matter ought to be left to practice in the interim, and considered on a case by case basis.

### **Proposal on improving on the efficiency of committees**

24. The Member for Garissa Township averred that Committees form an important avenue through which the House executes its duties. Therefore, effective committees translate to an effective House. In this regard, the Members proposed that –

- (a) The streamlining of the mandates of committees especially where the mandates are broad. This will ensure specialization and hence enhancing efficiency;
- (b) the membership of the Committees be reconsidered; and
- (c) additional committees be established to deal with emerging issues.

25. Specifically, the Hon. Duale proposed –

- (a) That a **Departmental Committee on Children & Youth** be established to deal with children and youth matters. These areas are currently sandwiched in the Departmental Committee on Labour & Social Welfare and not given the due regard they deserve. This is especially important noting that out of the

estimated national population of 50 million, approximately 35.7 million are youth.

- (b) That a **Departmental Committee on National Debt & Debt Management** be established to deal with, among other things, the national debt, debt management and oversight of public and private partnerships. This is an imperative subject matter which should not be sandwiched in mandate of the Budget & Appropriations Committee which specializes in dealing with budget matters. With the skyrocketing national debt and the warnings by international financial institutions regarding the state of the country's national debt, there is need for a dedicated committee to look into the matter.
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- (c) That the Departmental Committee on Defence & Foreign Affairs be split into two Committees to establish a **Departmental Committee on Defence** and a **Departmental Committee on Foreign Affairs**. The two thematic areas should not be conjoined.
- (d) That the Departmental Committee on Transport, Public Works & Housing be split into two Committees to establish a **Departmental Committee on Transport & Public Works** and a **Departmental Committee on Housing**. One of the pillars of the Big Four Agenda is housing and hence there is need for a Committee to specialize on matters housing which have often not be given prominence as presently the Committee only focuses on matters transport and public works.
- (e) That the Procedure and House Rules Committee explores establishing a **Committee on General Oversight** to allow Cabinet Secretaries to attend the House to respond to questions of

a topical nature on a specified date, once a month. It is notable that whereas there have been arguments that such a proposal would offend the principle of separation of power, the Constitution does not prohibit such a structure and indeed if established, this would promote the efficiency of the House and its Committees in performing the constitutional oversight role.

- (f) That the membership of Departmental Committees be reduced from **19 Members to 15 Members**.

**Observation:** the Committee noted that proposals under (a) – (f) have varyingly been adopted with the proposed additional Committees and the varying of committee composition.

(g) Statutory Instruments – Committee on Delegated Legislation

- (i) *That noting that the Statutory Instruments Act No. 23 of 2013 does not require the Committee on Delegated Legislation to make a report to the House when it recommends approval of statutory instruments, the Standing Orders should be amended to require the Committee to make periodic reports to the House on what statutory instruments it has approved and which do not require the approval of the House.*
- (ii) *Further, the Standing Orders should be amended to require regulation making authorities to provide feedback or reports to the Committee on Delegated Legislation where a report of the Committee had recommended annulment. The feedback to the Committee should contain evidence that the regulatory authority has annulled/amended the statutory instruments as*

*recommended by the Committee in order to ensure implementation.*

**Observation:** The Committee noted that the proposal would further enhance the processing of Statutory Instruments in the House.

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**Recommendation:** Amend Standing Order 210 by inserting new paragraphs after paragraph (5) to provide for reporting by the Committee on Delegated Legislation and a regulation making authority on statutory instruments annulled by House –

**“5A. The Committee shall on quarterly basis, report to the House on the list of statutory instruments approved under paragraph (4)(a).**

**5B. (a) Where the House annuls part or an entire statutory instrument, the regulation making authority shall within twenty-one days, notify the Clerk and provide evidence that the annulment has been published in the Gazette.**

**(b) The Clerk shall enter the information in the register of Statutory Instruments and refer the information to the Committee.”**

### **Proposals regarding Constitutional amendment Bills**

26. The Member for Garissa Township averred that a Bill to amend the Constitution is *sui generis* and its consideration is set apart from that of an ordinary Bill. In this regard, the Standing Orders ought to recognize the unique nature of Bills seeking to amend the Constitution. The Hon. Duale further avers that there is need to raise the bar for amending the Constitution.

To this end, the Member proposed that the Standing Orders be amended to, *inter alia* –

- (a) Raise the bar for introduction of such Bills;
- (b) Require a Member to collect signatures of at least 50 Members before initiating such a Bill and also before such a Bill is published;
- (c) Require that the memorandum of objects ought to contain a statement on whether, in the opinion of the Member, the Bill contains provisions that touch on the basic structure of the Constitution;
- (d) Define the power of the Speaker to decline to approve the publication of a Bill that seeks to amend ‘the Basic Structure’ of the Constitution;
- (e) Provide that a Bill to amend the Constitution which does not pass may not be reintroduced in the same Parliament or session of Parliament;
- (f) Define the extent of public participation required before the publication of a Bill to amend the Constitution;
- (g) Provide that you cannot have closure of debate or adjournment of debate for a Bill to amend the Constitution in terms of Standing Orders 95 (Closure of Debate) and 96 (Adjournment of debate); and
- (h) Provide that the debate for a Bill to amend the Constitution should not be for less than **14 sitting days** to allow for public discussion and debate at Second Reading noting that there are no amendments to be made to the Bill. To this end, each Member should be allocated not less than 30 minutes.

**Observation:** The Committee observed that there was need to further provide for the processing of Bills seeking to amend the Constitution. However, the measures ought not to curtail Members' legislative mandate.

**Recommendation:**

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~~(a) Amend the Standing Orders to provide for checks on the introduction of a Bill to amend the Constitution keeping in mind the provisions of the Constitution; and~~

(b) Amend Standing Order 95 (Closure of Debate) to exempt Constitutional Amendment Bills from the Standing Order.

**Proposal regarding Points of Order by House Leadership**

27. The Hon. Duale noted that as it is presently, the Leaders of Majority and Minority Parties do not rise in their places whenever a Member raises a *Point of Order* as provided for in Standing Order 83. This denies the Members a chance to appreciate that their Leaders may want to speak on a certain Point of Order and hence lack guidance and leadership. The Member therefore proposes that the Standing Orders be amended to allow the Leaders of Majority and Minority Parties to rise in their places whenever a Member raises a Point of Order if they deem it fit to respond or provide relevant information on the matter at hand.

**Observation:** The Committee observed that the practice of raising a point of order by a Member seeks to bring to the attention of the Speaker a matter of concern during a speech by another Member. Upon a point of order being raised, the Speaker gives a decision on the point of order or defers the decision for a later date. No Member is allowed to speak or respond to a point

of order unless as may be directed by the Speaker. It would therefore be appropriate that the current practice be retained with the Speaker giving direction on a case by case basis where a Leader of a Parliamentary Party or a Chairperson of a Committee may be called upon to respond to a matter within their mandate as raised in a point of order.

**Recommendation:** The Committee recommends that the limitation of direct response to a point of order raised by a Member be retained.

**1.5 PROPOSALS BY THE MEMBER FOR KIBWEZI WEST, THE HON. PATRICK MUSIMBA, MP**

28. The Member for Kibwezi West, Hon. Dr. Patrick Musimba, MP, in a letter dated April 2022, made various proposals for the amendment of the Standing Orders as hereunder –

**(i) On the place of Independent Members in Committees**

29. The Hon. Dr. Patrick Musimba noted that Committees of the House play an important part in the effectiveness of the legislature. Further, he notes that Article 99 of the Constitution gives all those intending to be elected as Member of Parliament the same threshold to meet regardless of political inclinations whether to a party or as an independent. In this regard, the Member is of the view, given this equality of the status, all Members ought to be fully involved in the orderly conduct of parliamentary duties and the committees especially noting that one of the key roles of Members is oversight. Therefore, independent Members should be considered in the composition of committees as oversight mainly takes place in committees. This would have the net effect of placing the independent Members at the same level as their party-affiliated counterparts.

30. In light of the above, the Member for Kibwezi West proposed that –

- (i) Standing Order 259A be amended to provide for the **place of an Independent Members’ Caucus** with the objective of advancing the agenda of independent Members and full recognition of a leader/chairperson of this caucus.

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- (ii) On the **composition of the Committee on Selection**, Standing Order 172 be amended by including this proposed leader/chairperson of the Independent Members’ Caucus to be a part of the Committee of Selection. This way, the interests of the independent Members will be seen to be safeguarded in the selection of Members to serve in select committees of the House.
- (iii) Standing Order 174 on the **Criteria for Nomination** be harmonized to reflect the position after these proposals.

**Observation:** The Committee noted that the proposal would indeed entrench the place of independent Members in the House and its Committees.

**Recommendation:**

- (a) Amend the Standing Orders to insert a new Standing Order establishing a caucus for Independent Member’s;
- (b) Amend Standing Order 174 by inserting the following new paragraph –

**“2A. The Speaker shall, as practicable as possible, ensure that Members belonging to parties other than parliamentary parties and Independent Members are nominated to serve in Committees.**

**2B. The Speaker may decline to approve the presentation to the House Business Committee of a proposed list of committee membership if the criteria prescribed in this Standing Order is not adhered to by the Committee on Selection or a Member proposing the establishment of an *Ad hoc* Committee.”**

**(ii) On the Introduction of a Parallel Debating Chamber**

31. The Hon. Dr. Musimba noted a need for review of the legislative process through the establishment of a mini-chamber. He proposed that the creation of a parallel debating chamber would be effective in providing additional time for the Second Reading of Bills and tabling of reports and thus expedite the legislative role of the institution. Additionally, the chamber would afford Members with vested interests who would like to contribute to the specific debates an opportunity to dispense of all their views.

32. A comparative study of the practice in the United Kingdom revealed that in the Westminster Hall, a parallel chamber is for debates on reports of select committees and for private Members to raise constituency and specialist matters. In Australia, a Federation Chamber has been established for the same purpose. Similarly, in 2016, the Parliament of Malaysia introduced a second chamber.

**Observation:** The Committee noted that the proposal was progressive and would provide ‘additional time’ for debate of House business, especially business from individual Members. However, there was need for further consideration of the matter to ensure seamless operationalization of the proposal. In this regard, the Committee recommended that this proposal be pending for consideration in the next review of the Standing Orders.

**1.6 PROPOSALS BY THE MEMBER FOR DAGORETTI SOUTH, THE HON. JOHN KIARIE, MP**

33. The Hon. John Kiarie, MP proposed amendments to the Standing Orders in the following areas—

**(a) The mode of appointing the Leader of the Majority Party and the Leader of the Minority Party once they have been elected by their respective parties.**

34. In his view, once the Majority or Minority Party elects a Leader the decision should be formally communicated to the Speaker by the Chairperson or the Secretary-General of the Majority or Minority party as the case may be, for information to the House.

**(b) Strengthening of the Leadership Offices to facilitate the discharge of the duties of the Leaders of the Majority and Minority Parties**

35. The Hon. Member notes that the Leadership offices are constitutional in nature and crucial in advancing the legislative business and agenda of the Parties. Their work involves holding meetings with their respective members for purposes of discussing or explaining party positions on legislative business before the House and would require to be facilitated by the House.

**(c) Aligning the process of removal from office of the Leader of the Majority Party and the Leader of the Minority Party with due process and fair administrative action**

36. The Member notes that due processes and fair administrative action are principles that are engraved in the Constitution and the Fair Administrative Action Act, 2015. He proposes that Standing Order 19 and 20 be amended to provide that—

- (i) *only bona fide Members of the Majority Party or Minority Party or Coalition of Parties as the case may be, should be allowed to vote to remove the Leader of Majority or Minority Parties;*
- (ii) *provision of adequate notice to the Leader being proposed to be removed;*
- (iii) *Any removal process of a Leader should be done through a vote;*
- (iv) *The Secretary-General of the Majority or Minority Party should then forward Minutes to the Speaker detailing the resolution of the respective party to remove a Leader including information on which Members attended the meeting for removal of the Leader and voted for the resolution; and*
- (v) *An appellate process within the Majority or Minority Party to challenge the resolution of a Party to remove a Leader.*

**(d) Increasing Members' participation and efficiency in committees**

37. The Member proposed reduction of the membership of Departmental Committees from nineteen to fifteen members.

**(e) Establishment of a Public Debt Committee**

38. The Member proposed that the Committee only deal with examination and scrutiny of public debt unlike the current scenario where public debt is not examined exhaustively save for when the Budget Committee is considering the Debt Management Strategy.

**(f) Conferences with the Senate**

39. The Member proposed regular conferences with the Senate as a forum for resolving any disputes or legislative business that involves both Houses,

including oversight, to save future Parliaments from the many disputes that have inundated the 11th and 12th Parliament, ending up in Courts.

**(g) Members' Roll**

40. The Hon. John Kiarie proposed that the Clerk maintain a Members Roll showing the name of each Member, the date he or she takes oath or affirmation; and when he or she ceases to be a Member. He notes that it is very difficult to obtain information relating to Members, especially those who served in previous Parliaments unless a person painstakingly goes through all Hansards records. He proposes that the Roll be deposited at the Parliamentary Library at the end of each term of Parliament.
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**Observations:** The Committee noted that—

- (i) Standing Orders 19 and 20 provide that the person elected as the Leader of the Majority Party and the Leader of the Minority Party should be communicated in writing to the Speaker by the respective whips. They do not provide for instances where a whip is absent or has not been designated by their party.
- (ii) The Standing Orders should be amended to provide for the facilitation of Leadership offices which are constitutional offices
- (iii) Though the principles of due process and fair administrative action apply to the removal of the Leader of the Majority Party and the Leader of the Minority Party, the removal process occurs outside Parliament and the role of the Speaker is limited to notifying the House of official communication of the decision of a Party to remove its Leader. The Standing Orders may be amended to require –
  - i. a Member seeking the removal of the Leader of the Majority Party or the Leader of the Minority Party or their deputies to

- submit the request to their party together with the names and signatures of at least a quarter of all the Members of the party or coalition of parties.
- ii. a communication to the Speaker of the removal to include the minutes of the meeting at which the removal was decided and the names and signatures of the Members in attendance at such meeting;
  - iii. the Speaker to confirm that the threshold for the removal of a Leader of the Majority Party or a Leader of the Minority Party or their deputies has been met.
- (iv) Reduction of the Membership of committees would increase efficiency of committees;
  - (v) Establishment of a Committee to scrutinize the public debt would ensure oversight on an area that has not been fully oversights by the Budget and Appropriations Committee;
  - (vi) Article 124 of the Constitution empowers the House to make Standing Orders for the orderly conduct of its proceedings. As such, any provision made in the Standing Orders does not necessarily bind the Senate. The only mandatory engagement in law between the two Houses is a Mediation Committee on a Bill or a joint sitting of Parliament.
  - (vii) A Members Roll would ensure that a proper record of Members' service to the House is maintained for posterity.

**Recommendations:**

- (a) Amend Standing Order 19 and 20 to—
  - (i) Provide for the manner of communicating the election of House Leadership in the absence of Whips;

- (ii) require the Speaker to facilitate the House Leadership in the discharge of their duties;
  - (iii) to require a Member seeking the removal of the Leader of the Majority Party or the Leader of the Minority Party or their deputies to submit the request to their party together with the names and signatures of at least a quarter of all the Members of the party or coalition of parties.
  - (iv) to require a communication to the Speaker of the removal to include the minutes of the meeting at which the removal was decided and the names and signatures of the Members in attendance at such meeting;
  - (v) to require the Speaker to confirm that the threshold for the removal of a Leader of the Majority Party or a Leader of the Minority Party or their deputies has been met.
- (b) Amend Standing Order 216 to reduce the Membership of Departmental Committees to fifteen Members;
  - (c) Amend the Standing Orders to establish a new Public Debt Committee; and
  - (d) Amend the Standing Orders to require the Clerk to maintain a Members Roll.

**1.7 PROPOSALS BY THE MEMBER FOR SOY, THE HON. CALEB KOSITANY, MP**

41. The Member for Soy Constituency, Hon. Caleb Kositany, MP, in a letter dated **7<sup>th</sup> March 2019** made the following proposal seeking to amend the sitting hours of the House as hereunder –

(a) That the National Assembly sittings be held as follows –

Tuesday	Morning Sitting	9:30am to 1:00pm
	Afternoon Sitting	2:30pm to 8:00pm
Wednesday	Morning Sitting	9:30am to 1:00pm
	Afternoon Sitting	2:30pm to 8:00pm

(b) That the time allocated for Zero Hour under Standing Order 43 be increased to one hour from the usual 6:30-7pm to 6:00-7:00pm on Tuesdays and Wednesdays.

**Justification:** the increased period of sitting would allow Members more time to make contributions during Chamber proceedings. Consequently, Committee meetings would be held on Monday afternoons and Thursday mornings in order to free up Thursdays from Chamber sittings. This would allow Members to travel to their Constituencies and better discharge their representation role.

**Observation:** The Committee observed that the proposed amendment would not considerably increase the total number of hours of sitting as envisaged by the Member. The net increase in the proposed amendment vis-à-vis the hours of sittings as currently constituted is only one (1) hour. Additionally, the concept of ‘Zero hour’ applied with regards to debate by Members on general matters which do not constitute substantive business

of the House. Extending the time allocated for zero hour may reduce the time available for debate of substantive business.

**Recommendation:** The Committee proposed that the hours of sitting remain as currently set out aware that the House may, from time to time, alter the sitting hours as provided for in the Standing Orders.

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**1.8 PROPOSALS BY THE MEMBER FOR KWALE COUNTY, THE HON. ZULEIKHA JUMA HASSAN, MP**

42. The Member for Kwale County, the Hon. Zuleikha Juma Hassan, MP, in a letter dated 3<sup>rd</sup> December 2019 proposed an amendment to the Standing to allow access to the Chamber by infants being cared for by Members of Parliament. This was to facilitate lactating Members to continue breastfeeding up to the recommended age while ensuring that they are able to effectively execute their mandate in the House. The Member proposed an amendment to Standing Order 253 as follows –

“THAT, Standing Order 253 be amended by inserting the following new paragraph immediately after paragraph (2)”

*“(2A) Paragraph (1) does not apply to an infant being cared for by a Member”*

**Observation:** The Committee observed that the Parliamentary Service Commission had established a staffed crèche to facilitate lactating Members to attend and participate in sittings of the House and hence there was no need to make a provision on the same in the rules.

**Recommendation:** Following further deliberations on this matter, the Committee noted that the crèche as currently situated is not easily accessible from the Main National Assembly Chamber. The Committee agreed that the

Commission should consider relocating the crèche to a more convenient place within the Main Parliament building preferably on the ground floor and expand the facility to include appropriate rooms for lactating mothers and an outdoor play area for the infants.

**1.9 PROPOSALS BY THE MEMBER FOR SUBA NORTH COUNTY, THE HON. MILLIE ODHIAMBO-MABONA, MP**

43. By way of a letter dated 15<sup>th</sup> May 2022, the Member for Suba North, the Hon. Millie Odhiambo-Mabona, MP submitted a memorandum seeking to amend the Standing Orders in the following areas –

**(a) Ranking system of Members of Parliament**

44. The Member proposed the introduction of a ranking system of Members of Parliament akin to the American system. She proposed that a Ranking member should be the following;

- (i) The second-most senior member of a committee from the majority party, if not a committee chairperson. This should be designated Majority Ranking Member.
- (ii) The most senior member of a committee from the minority party. This should be designated Minority Ranking Member;
- (iii) On the floor of the House, all the ranking members from Committees to be so recognized and not more than 5 other Members not holding any office as chair or ranking member in the committees, but who have qualified as a Ranking Member. The five are to be selected in relation to seniority attained through swearing-in, akin to the Advocates' signature on the Roll.
- (iv) For one to qualify to be a Ranking Member, he or she should have served for at least two (2) terms and **MUST** be the most senior in the committee or in the House.

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- (v) When a party's control of a legislative chamber changes, a committee's Ranking Minority member may be considered, (though not mandatory), to become the next chairman of the committee, and vice versa.
- (vi) Ranking Members should have designated sitting places in Parliament and as far as is practicable, given priority in contribution after the Membership of House Leadership and relevant chairs of committees; they should also be given priority in selecting the committees they wish to serve in;
- (vii) Ranking Members are expected to act in a manner that reflects this status and Ranking status may be removed on recommendations of the Committee of Privileges based on misconduct by a Ranking member;

**Observation:** The Committee observed that the concept of '*Ranking Member*' in other parliamentary jurisdictions refers to the senior most Member of a Committee after the Chairperson. In the context of the Kenyan Parliament, the term has been used to refer to a Member with the longest period of service to the House or who has held a position of leadership in the House. To harmonize this with the proposal for the election of two Vice-Chairpersons of Committees, there is need to define the term Ranking Member as a Member with the longest period of service to the House or who has held a position of leadership in the House.

**Recommendation:** Amend the Standing Orders to insert a new Standing Order on the designation of Ranking Members by the Speaker and the criteria for such designation.

**(b) Organisation of the African, Caribbean and Pacific States-European Union (OACPS-EU) Joint Parliamentary Assembly**

45. The Member proposed that parties should nominate and Members vote for Members of the OACPS -EU Parliamentary Assembly based on parliamentary

strength, while taking into account gender and regional interests. Such Members should serve the full term and report to the House just like the Pan African Parliament. No one member should belong to the two parliaments.

**Observation:** The Committee observed that currently, the Deputy Speaker leads the parliamentary delegation to the OACPS -EU while the membership of the delegation is shared between the Members of the National Assembly and the Senate. Membership of a delegation is not fixed and the two Speakers designate different Members to attend different sessions of the Assembly based on the committee of the OACPS-EU JPA allocated to the country. Consideration is made on the Members' expertise in the various mandates of the OACPS-EU Committees.

Additionally, Article 124 of the Constitution requires Parliament to provide Standing Orders for the orderly conduct of its proceedings. The Committee was of the view that this matter was outside the purview of the Standing Orders.

**Recommendation:** The practice of designating membership of delegations to OACPS-EU meetings be retained.

#### **(c) Speakers' Panel**

46. The Member proposed that parties should nominate members to the Panel and the Speaker approve the same. A member may be removed by the Speaker based on recommendations of the Privileges Committee in case of misconduct by a member of the Panel. The selection should be based on Parliamentary strength, and reflect ethnic and regional balance.

**Observation:** The Committee noted that currently, as provided for under Standing Order 16(2), the Speaker consults with leaders of parliamentary parties in nominating members to the Panel. Standing Order 17 provides for discharge of a Member from the Speaker's Panel. The current removal process is sufficient and linking all intended removals to breach of privilege requiring the intervention of the Committee on Powers and Privileges may not be appropriate.

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**Recommendation:** The current practice of appointment and discharge of Members of the Chairperson's Panel be retained.

**(d) Membership to the Parliamentary Privileges Committee**

47. The Member proposed that the Membership should be composed of Members who have served more than one Parliamentary term.

**Observation:** The Committee observed that there was need to provide for the procedure of selecting Members to the Committee on Privileges in view of the mandate of the Committee.

**Recommendation:** Amend the Standing Orders to include considerations to be made in selecting Members to the Committee.

**(e) Co-Sponsorship of Bills**

48. The Member proposed that there should be co-sponsorship of Bills by a Member of the National Assembly and the Senate where the Bill relates to Counties.

**Observation:** The Committee noted that there was need to amend the Standing Orders to allow for co-sponsorship of Bills between Members of the House or a Member of the House and a Senator. Where the Bill is a Bill

concerning counties, co-sponsorship would allow for a Member in charge of a Bill to notify the Speaker of the name of a Senator the Member has nominated to co-sponsor the Bill in the Senate after the passage of the Bill. In transmitting the Bill to the Senate the Clerk should notify the Senate of the name of the co-sponsor of the Bill. The co-sponsor would then be in charge of the Bill in the Senate.

**Recommendation:**

- a) Amend Standing Order 114 to allow a Member to introduce a legislative proposal jointly with other Members.
- b) Amend Standing Order 120 to require the inclusion of any co-sponsor of a Bill in the published version of the Bill.
- c) Amend Standing Order 142 to require a Member in charge of a Bill to notify the Speaker in writing of the name of any Member of the Senate that the Member has nominated to co-sponsor the Bill in the Senate and to require the Clerk to notify the Senate of the name of the co-sponsor of the Bill.
- d) Amend Standing Order 143 to require the Speaker to inform the House of any Member who has been nominated by a Senator to co-sponsor a Bill originating from the Senate in the House.

**(f) Bill that has passed pre-publication scrutiny not to undergo the same process in the immediate succeeding Parliament**

49. The Member proposed that a Bill that has passed pre-publication scrutiny should not go through the same process in the immediate succeeding Parliament if introduced in substantially the same form, whether by the previous sponsor once elected, or by a new Member.

**Observation:** The Committee noted that to ensure continuity of Bills, there is need to provide that should a Member be re-elected and the Member had sponsored a Bill which had been read a First time, the Bill ought to be exempted from pre-publication scrutiny.

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~~**Recommendation:** Amend Standing Order 114A to allow for this exemption.~~

**(g) Ranking of Private Members' Bills**

50. The Member proposed that other than Bills sponsored by the party, there should be a ranking of Bills sponsored by Private members, based on when they are **forwarded** or presented to the clerk/House by a Member. There should be a register that delineates the date of receipt of Bill. Each Bill should be given a Pre-publication number that shows when it was presented to the House.

**Observation:** The Committee observed that at the pre-publication stage, the pace of progress of Bills is dependent on various extraneous factors e.g. some proposals are considered by both the Budget and Appropriations Committee and the relevant Departmental Committee and may take more time. Some proposals may be seeking to make a single amendment to an Act of Parliament while others may seek to repeal and replace an entire Act. The timelines are therefore not predictable and ought not to be fixed.

**Recommendation:** The Committee recommends that the current practice be retained.

**(h) A Private Member's Bill that takes more than one year in a committee should be presumed approved**

51. The Member proposed that a Private Member's Bill that takes more than one year in a committee should be presumed approved and the Member facilitated

by Parliament to undertake public participation of the Bill. This approval should equally apply to Bills under consideration by the Budget and Appropriations Committee.

**Observation:** The Committee observed that whilst various reasons may occasion delay in the pre-publication scrutiny by Committees, it would not be appropriate to provide for presumed failure and/or refusal. Additionally, there are no mechanisms for an individual Member to conduct public participation of a Bill. Additionally, the Speaker has from time to time recalled legislative proposals that have unduly delayed in Committees with no justified reason proffered.

**Recommendation:** That the current practice be retained with each legislative proposal considered on a case by case basis.

**(i) Support to Parliamentary Caucuses**

52. The Member proposed that there should be an open and participatory process of members joining a Caucus. As much as is practicable, there should be no two Caucuses with substantially similar mandates. Special recognition should be given to Caucuses that span more than one jurisdiction and that may have a long history. As much as is practicable, Parliament should designate an officer to support a Caucus and offer logistical support for at least four meetings in a year.

**Observation:** The Committee noted that Standing Order 259A currently allows Members to form and join caucuses of their choice. This right ought not to be unduly restricted. As regards special recognition, the Taskforce observed that this may elevate some caucuses above others and create conflict

with the discharge of Committees' mandates. With regard to logistical support to Caucuses, it is noted that this is currently provided on a case-to-case basis.

**Recommendation:** The provisions of Standing Order 259A adequately provide for concern of the Member.

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**(j) Continuous learning by Members of Parliament**

53. The Member proposed that each Member of Parliament should, just like all other professions, be engaged in continuous learning process. This should entail a combination of local trainings at the Parliamentary Training Centre and comparative visits to relevant jurisdictions. There should be equality and equity in access to continuous learning.

**Observation:** The Committee noted that capacity-building and professional development of Members of Parliament is an administrative matter within the purview of the Parliamentary Service Commission.

**Recommendation:** The issue need not be included in the rules of procedure of the House.

**(k) Members facilitated to undertake their legislative roles**

54. The Member proposed that Parliament should facilitate members to undertake their legislative roles including availing in each office a set of the Laws of Kenya. A Member who loses any of the laws should replace them at the end of the term.

**Observation:** The Committee noted that Members of Parliament are currently facilitated by the Parliamentary Service Commission to undertake

their legislative role through the various directorates and departments which process any request made for the introduction of legislation.

**Recommendation:** The issue need not be included in the rules of procedure of the House.

#### **1.10 SPEAKER'S COMMUNICATION OF 9<sup>TH</sup> JUNE 2020 ON ENTITLEMENT OF SLOTS IN SELECT COMMITTEES AND DISCHARGE OF MEMBERS FROM COMMITTEES**

55. In June 2020, the Member for Ugenya Constituency, the Hon. David Ochieng, MP had raised various issues relating to the application of Standing Orders 172, 173 and 176. The concerned majorly revolved on **whether a Member belonging to a party other than a 'parliamentary party' may be discharged from a Committee of the House by any parliamentary party.** The concern was as a result of a notice received by the Member from the Minority Party Whip notifying him of the Party's intention to discharge him from the Departmental Committee on Health pursuant to the provisions of Standing Order 176.
56. By way of a Communication issued on 9<sup>th</sup> June, 2020 on "*Entitlement of slots in Select Committees and Discharge of a Member from Select Committees by parliamentary parties*" the Hon. Speaker gave the following guidance—
- (a) THAT, the exercise of the discharge powers of a party under Standing Orders 176 is restricted to Members belonging to the particular parliamentary party and those from other smaller parties who have entered into formal coalition agreements;
  - (b) THAT, NO parliamentary party is to exercise the discharge powers of a party under Standing Orders 176 to remove a Member who is not a Member of the particular parliamentary party from any Committee of the House, even on the basis of having granted the

Member the nomination to the particular Committee as that conception is based on misapplication of the Standing Orders;

- (c) THAT, since the Member for Ugenya Constituency, the Hon. David Ochieng', MP neither belonged to any parliamentary party nor was his Movement for Democracy and Growth Party (MDG) in a coalition with any of the parliamentary parties, the notice given by the Minority Party Whip to discharge the Member from the Departmental Committee on Health was erroneous *ab initio* and therefore invalid;
- (d) THAT, in view of the continued misapplication of Standing Order 174 by assuming that all committees' slots are reserved for the exclusive distribution to the membership of parliamentary parties thereby alienating the Independent Members and Members belonging to parties other than parliamentary parties, the Committee on Selection in consultation with the Procedure and House Rules Committee ought to devise a criteria for nomination of Members to Committees that guarantees that Members who belong to parties other than Parliamentary parties and Independent Members also get their rightful share of Committee slots. This may include proposals for registration of desired committee(s) and the use of lots as a means of determining how to place such Members in their entitled slots; and,
- (e) THAT, the Procedure and House Rules Committee does initiate the process of proposing amendments to the Standing Orders so as to expressly provide for the said criteria. The Committee may also propose the manner of ordinary reallocations of the slots in Committees corporately reserved for Independent Members and

parties other than parliamentary parties, amongst the Independent Members and those belonging to the small parties that do not constitutes parliamentary parties.

**Observations:** The Committee noted that implementation of the above Communication would require amendment of the Standing Orders to—

- (a) provide for the entitlement of Members of parties other than parliamentary parties and independent Members to membership of committees;
- (b) require the Committee on Selection to consult with parties other than parliamentary parties and independent Members in nominating Members to the committees of the House; and
- (c) allow parties other than parliamentary parties to discharge their Members from Committees.

**Recommendation:**

- (i) Amend of the definition of “party whip” to expand its application to parties other than parliamentary parties;
- (ii) Amend of Standing Order 171(1) (f) to allow the interests of parties other than parliamentary parties to be taken into consideration when constituting the House Business Committee;
- (iii) Amend of Standing Order 172 (1) (c) to allow the interests of parties other than parliamentary parties to be taken into consideration when constituting the Committee on Selection;
- (iv) Amend of Standing Order 173 (1) to require the Committee on Selection to consult parties other than parliamentary parties and

independent Members when nominating Members to serve in select Committees;

- (v) Amend of Standing Order 174 (2) to expressly provide that Members from parties other than parliamentary parties and independent Members are entitled to be nominated to serve in select committees.

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The current use of the word “may” gives undue discretion to the Committee on Selection;

- (vi) Amend of Standing Order 176 to expand the application of the procedure for discharging a Members from a Committee to parties other than parliamentary parties;
- (vii) Amend of Standing Order 213 (3) to require the Committee on Selection to consult parties other than parliamentary parties and independent Members when nominating Members to serve in Joint Committees; and
- (viii) Amend of Standing Order 216 (1) (a) to require the Committee on Selection to consult parties other than parliamentary parties and independent Members when nominating Members to serve Departmental Committees.

#### **1.11 PROPOSALS RECEIVED FROM DIRECTORATES AND DEPARTMENTS OF THE NATIONAL ASSEMBLY**

57. The Clerk of the National Assembly through the various Directorates/Departments in the National Assembly proffered amendments to be considered in the review process. Submissions touching on various areas were received from –

- 1) Directorate of Legislative & Procedural Services,
- 2) Directorate of Departmental Committees,

- 3) Directorate of Audit, Appropriation & Other Select Committees,
- 4) Directorate of Legal Services, and
- 5) Parliamentary Budget Office.

58. A detailed analysis of the proposals from the various Directorates is summarised below –

**59. Processing of Constitutional Amendment Bills**

The following proposals were made relating to the processing of Constitutional amendment Bills –

- a) consider increasing the timeline for pre-publication scrutiny of the Constitution of Kenya Amendment Bills. The current timeline is 21 days similar to ordinary Bills.
- b) a proposed Constitution of Kenya Amendment Bill ought to fulfill a list of requirements akin to the checklist in the consideration of petitions;
- c) Exempt Bills to amend the Constitution from provisions of Standing Order 95 on closure of debate

**Observation:** The Committee noted that-

- a) whilst there is need to prescribe a procedure for the consideration of legislative proposals seeking to amend the Constitution, this ought to be within the constitutional threshold to ensure that the process does not curtail Members' legislative role as provided in the Constitution.
- b) there is need to exempt Bills to amend the Constitution from provisions of Standing Order 95 on closure of debate, to allow Members adequate time to debate the Bill.

**Recommendation:** Amend the Standing Order 95 to exempt Bills to amend the Constitution from the provision.

## 60. Co-sponsorship of Bills

Proposal to introduce co-sponsorship of Bills to reduce on cost and to save time. The co-sponsorship may be between Members of the National Assembly, or between a Member of the National Assembly and a Senator.

**Observation:** The Committee noted that there was need to amend the Standing Orders to allow for co-sponsorship of Bills between Members of the House or a Member of the House and a Senator. Where the Bill is a Bill concerning counties, co-sponsorship would allow for a Member in charge of a Bill to notify the Speaker of the name of a Senator the Member has nominated to co-sponsor the Bill in the Senate after the passage of the Bill. In transmitting the Bill to the Senate the Clerk should notify the Senate of the name of the co-sponsor of the Bill. The co-sponsor would then be in charge of the Bill in the Senate.

### **Recommendation:**

- e) Amend Standing Order 114 to allow a Member to introduce a legislative proposal jointly with other Members
- f) Amend Standing Order 120 to require the inclusion of any co-sponsor of a Bill in the published version of the Bill.
- g) Amend Standing Order 142 to require a Member in charge of a Bill to notify the Speaker in writing of the name of any Member of the Senate that the Member has nominated to co-sponsor the Bill in the Senate and to require the Clerk to notify the Senate of the name of the co-sponsor of the Bill.
- h) Amend Standing Order 143 to require the Speaker to inform the House of any Member who has been nominated by a Senator to co-sponsor a Bill originating from the Senate in the House.

## 61. Standing Order 1 – In cases not provided for, the Speaker to decide

That Standing Order 1 to be moved to the last Part for sequencing. This will ensure that after all the provisions are listed, the Speaker is then given discretion to rule on any other matter not provided for.

**Observation:** The Committee was of the view that Members are used to the provision as it currently appears in the Standing Orders. Therefore, moving the Standing Order might create unnecessary confusion among Members.

## 62. Standing Order 2 - Interpretation

Proposal to –

- a) Provide for the period for consideration of the Budget Policy Statement as part of the definition of **allotted day**.

**Observation:** The Committee was of the view that the concept of ‘allotted day’ does not apply to the consideration of the Budget Policy Statement. However, the definition of the concept would require amendment to include the period set aside for debate on the president’s address to Parliament.

**Recommendation:** insert the following words in the definition of ‘allotted day’

*“for debate on the President’s address to Parliament as provided in Part V or’ immediately after the words ‘set aside’.”*

- b) Under “**Leave of the Speaker**”, include a provision in the Standing Orders explaining how the leave of the House is obtained. The aspect of “five members rising in their places” in opposition to the grant of leave ought to be clear.

**Observation:** The Committee proposed that this be left to practice. Defining it in this manner would amount to explaining a concept in the Standing Orders.

- c) Harmonize the use of the term “Majority Party Whip” in the Standing Orders. Some orders refer to “Majority Whip.”

**Observation:** The Committee agreed with the proposal as this would ensure clarity.

**Recommendation:** Amend the definition of Majority Party Whip, Minority Party Whip and Party Whip.

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- d) Consider providing for the designation of Party Whips under a substantive Standing Order.

**Observation:** The Committee agreed with the proposal.

**Recommendation:** Insert New Standing Order on Parliamentary Party and their Whips.

- e) Precincts of Parliament – Proposal to make further amendments to the definition of “*Precincts of Parliament*”

**Recommendation:** The Committee was of the view that the current definition is sufficient for the usage in the National Assembly. The definition was not challenged by the courts and the term is only used once in the Standing Orders with regard to access to Parliament by Members sanctioned for gross disorderly conduct.

- f) In the definition of “Sitting” - proposal to delete the words “but two or more periods” appearing immediately after the word “Committee.”

**Observation:** The Committee observed that the current definition does not accord with the current practice where more than two sittings are held within the normal sitting timings, for instance between 2.30pm and 7.00pm.

**Recommendation:** Amend the definition of “sitting” to delete the words “but two or more periods” appearing immediately after the word “Committee.”

g) Proposed new terms to be included in Standing Order 2 – “Division list”

**Observation:** The Committee was of the view that there is need to define the term for purposes of clarity.

**Recommendation:** Amend Standing Order 2 to include definitions of the terms.

h) Proposal to amend Standing Order 2(2) to make use of electronic means of communication since some Members do not have pigeon holes and those who do rarely use them.

**Observation:** The Committee agreed with the proposal.

**Recommendation:** Amend Standing Order 2(2) by inserting the words “or parliamentary offices; by electronic means to the Members’ official communication addresses or numbers;” immediately after the words “pigeon holes.”

### **63. Standing Order 3: Proceedings on assembly of a new House**

- a) In the opening statement, make it clear that the Clerk shall preside during the administration of oath to Members and the election and swearing in of the Speaker.
- b) Amend the order of precedence observed during swearing-in of Members;
- c) Insert the word “National” immediately before the word “Assembly” under Standing Order 3(2)(a);
- d) Reorder the paragraphs of the Standing Orders for logical flow
- e) Proposal to delete the words “after the first sitting of the house” and replace with “following a by-election” in Standing Order 3(6);

- f) Move Standing Order 3(7) to be Standing Order 3(6) and reword it as follows:

*“Notwithstanding Standing Order 30 (Hours of Meeting), the first sitting of a new house following a general election shall commence at 9:00am and shall continue sitting until conclusion of the business listed in the Order Paper.”*

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- g) Consider replacing the word “members” with “members-elect” in Standing Order 3(3), (4), (6) & Standing Order 5(3)

**Observation:** The Committee observed that—

- (a) Standing Orders 3(4) already provided for presiding by the Clerk before the election of a Speaker.
- (b) There was need to amend the Standing Order to make it clear the Members to be escorted and presented to the Speaker are those that are elected through a by-election and not those elected through a general election but miss the swearing-in.
- (c) There was need to amend the Standing Order to include Members who have served the House in leadership positions in the order of precedence observed during swearing in.
- (d) There was need to amend the Standing Orders to reflect the title applicable to Members before they are sworn in.
- (e) There was need to amend the Standing Order to allow the House to conclude the swearing-in of all Members as well as the election of the Speaker and Deputy Speaker.

**Recommendation:** Amend Standing Order 3 to —

- a) Insert the word “National” immediately before the word “Assembly” in Paragraph 3(2)(a);

- b) Include Persons who have served in the following leadership offices in the National Assembly in the order precedence observed during swearing-in of Members –
  - (i) Speaker
  - (ii) Leader of the Majority Party
  - (iii) Leader of Minority Party
  - (iv) Deputy Speaker
- c) Delete the word ‘Member’ and replace it with the word ‘member-elect.’
- d) Delete the words “after the first sitting of the House” and replace it with the words “following a by-election” in Paragraph (6).
- e) Delete Paragraph (7) and replace it with the following –
 

*“Notwithstanding Standing Order 30 (Hours of Meeting), the first sitting of a new house following a general election shall commence at 9:00am and shall continue sitting until conclusion of the business listed in the Order Paper.”*
- f) Reorder the paragraphs for logical flow.

**64. Standing Order 4: Vacancy in the Office of the Speaker –**

- a) Change title to “Election of Speaker after a General Election”;
- b) Insert the words “shall preside” immediately after the word “Constitution” in Standing Order 4(3)
- c) Move Standing Order 4 (2) & (3) to the proposed New Standing Order 12C dealing with a vacancy in the office of the Speaker.

**Observation:** The Committee observed that:

- a) The title of the Standing Order did not accord with its contents;

- b) The Standing Order 4(3) is not clear as to who is to preside if the Deputy Speaker was a candidate for election as Speaker;
  - c) Paragraphs (2) and (3) are misplaced as they did not relate to the election of the Speaker. It would be important to actualize Article 106(2)(c) of the Constitution in PART IIA of the Standing Orders by inserting a new Standing Order 12C which incorporates Standing Order 4(2) & (3).
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**Recommendation:** Amend Standing Order 4 to –

- a) Delete the title and replace it with “Election of Speaker after a General Election”
- b) Insert the words “shall preside” immediately after the word “Constitution” in paragraph (3);
- c) Move paragraphs (2) & (3) to a new Standing Order 12C on the procedure to be followed upon a vacancy in the office of the Speaker. *(The procedure on this part shall apply with necessary modification in the case of the Deputy Speaker.*

*“12C. (1) The office of the Speaker/Deputy Speaker shall become vacant if the office holder vacates office under Article 103 (Vacation of office of a Member of Parliament).*

*(2) If the office of Speaker falls vacant at any time before the expiry of the term of Parliament, no business shall be transacted by the House until the election of a new Speaker.*

*(3) The Deputy Speaker shall preside over the election under paragraph (2) but if the Deputy Speaker is a candidate, a Member elected by the House in accordance with Article 107 of the Constitution.”*

## 65. Standing Order 5: Nomination of candidates

- a) Include the words “*for election as Speaker*” immediately after the word “candidates” in the title;
- b) In paragraph (3), increase the number of names and signatures of Members-elect who support candidates for election to the office of the Speaker.
- c) In paragraph (3), include a provision requiring nominees to provide a comprehensive list of documents to accompany nomination papers and indicate that the nominee qualifies to be a Member of Parliament;
- d) Delete the word “meeting of the Assembly” appearing immediately before the word “prepare” and replace with “sitting of the assembly” in Standing Order 5(6).
- e) Include a provision to give a notice of at least seven (7) days for candidates to submit their nomination papers in case of an election due to a vacancy in the office of the Speaker.

**Observation:** The Committee observed that –

- a) There was need to amend the Standing Order to standardize the requirements for election of candidates as Speaker/Deputy Speaker;
- b) Increasing the number of signatures of Members required for one to be nominated for election as Speaker would be burdensome to candidates;
- c) Introducing a requirement to give a notice of at least seven (7) days for candidates to submit their nomination papers in case of an election due to a vacancy in the office of the Speaker would be impractical as the *gazettement* of the first sitting of the House by the President is outside the control of the administration of Parliament and there is no justification for a 7-days period as opposed to the current 48 hours period.

- d) Provide for a formal return of the nomination papers specifying place and time.

**Recommendation:** Amend Standing Order 5 to –

- a) Include the words “*for election as Speaker*” immediately after the word “candidates” in the title;
- 
- b) Include a draft Nomination Form and declaration form to be anchored under paragraph 3 and attached in the 9th Schedule for ease of reference.
- c) Delete the word “meeting of the Assembly” appearing immediately before the word “prepare” and replace with “sitting of the assembly” in paragraph (6).

#### **66. Standing Order 6: Secret ballot**

In Standing Order 6(4), delete the words “and destroy” because of the provision in Standing Order 10 requiring the Clerk to maintain custody of the ballot papers.

**Observation:** The Committee noted that Standing Order 10 required the Clerk to keep custody of ballot papers for at least six months for use as evidence in case of a complaint arising from the election of a Speaker. The proposal prohibited the Clerk from destroying spoilt ballot papers for the reason stated above.

**Recommendation:** Amend Standing Order 6 to delete the words “and destroy.”

#### **67. Standing Order 8: Withdrawal of candidate**

In Standing Order 8, delete the word “issued” and replace with “printed.”

**Observation:** The Committee noted that Standing Order 6(3) requires the Clerk to “issue” ballot papers while Standing Order 8 refers to “printed” ballot papers. There is need to align the usage of the two terms.

**Recommendation:** Amend Standing Order 8 to delete the word “issued” and replace it with “printed.”

#### **68. Standing Order 10: Custody of ballot papers**

In Standing Order 10, insert the words *“including spoilt, returned”* immediately after the word *“used”*.

**Observation:** The Committee noted that Standing Order 6(4) requires the Clerk to maintain custody of ballot papers marked in error. In case of a dispute in regard to election of a Speaker, such ballot papers, including any that are spoilt or unused would be required for scrutiny.

**Recommendation:** Amend Standing Order 10 to insert the words “including spoilt, returned” immediately after the word “used”.

#### **69. Standing Order 12A: Resignation**

Delete paragraph (1) and replace with –

*“The office of the Speaker or Deputy Speaker shall become vacant if the office holder resigns by a letter addressed to the House as contemplated under Article 106(2)(d) of the Constitution”*

**Observation:** The Committee noted that the Standing Order did not indicate the recipient of the letter of resignation submitted by the Speaker or Deputy Speaker.

**Recommendation:** Amend Standing Order 12A by deleting paragraph (1) and replacing with the following new paragraph;

*“The office of the Speaker or Deputy Speaker shall become vacant if the office holder resigns by a letter addressed the House as contemplated under Article 106(2)(d) of the Constitution”*

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#### **70. Standing Order 16: Chairperson’s Panel**

Proposal to increase the membership of the Chairperson’s Panel to six (6).

**Observation:** The Committee noted that there was need to increase the membership of the panel to better manage workload of presiding in the House and improve efficiency.

**Recommendation:** Amend Standing Order 16(1) by deleting the word ‘four’ and replacing it with the word ‘six’.

#### **71. Standing Order 19: Leader of the Majority Party and Deputy Leader of the Majority Party**

Include a provision to obligate the Clerk to obtain a certified copy of any coalition agreement entered into by parties in the National Assembly.

**Observation:** The Taskforce noted that there was need to provide for the manner in which coalition agreements may be obtained by the House to enable the Speaker to ascertain whether such agreements had been taken into account in the election of the Leader and Deputy Leader of the Majority Party.

**Recommendation:** Amend the Standing Orders to include a provision to obligate the Clerk to obtain, from the registrar of political parties, a certified

copy of any coalition agreement entered into by two or more parties in the National Assembly, for the convenience of the House.

## **72. Procedure for the removal of the Leader of the Majority Party and the Leader of the Minority Party**

Proposal to change the procedure for removal of the Leader of Majority Party and Leader of Minority Party and create a threshold for removal of the holders of the offices in order to guard against abuse of the process.

**Observation:** The Committee noted that there was need to amend the procedure for removal of the Leader of Majority Party and Leader of Minority Party to entrench a threshold and standards to guard against abuse of the process of removal from office which shall strengthen the leadership offices and facilitate the discharge of their respective duties.

**Recommendation:** Amend Standing Order 19 and 20 to:

- (a) Require a whip of the largest party or coalition of parties in the National Assembly to forthwith, upon a decision being made by the largest party or coalition of parties, communicate to the Speaker in writing, the decision of the largest party or coalition of parties to remove a Leader of Majority Party..
- (b) Require a whip of the largest party or coalition of parties in the National Assembly to submit to the Speaker, the decision of the party together with—
  - (i) the minutes of the meeting at which the decision was made by the largest party or coalition of parties; and

(ii) the names and signatures of the Members who approved the proposal to remove the Leader of Majority Party at the meeting.

(c) Require the Speaker to notify the House of the decision of the largest party or coalition of parties and the office of the Leader of Majority shall fall vacant upon communication of such a decision.

(d) The procedure for removal of a Leader of Majority Party to also apply to the Leader of Minority Party (Standing Order 20).

### **73. Standing Order 25: Visiting dignitary**

Proposal to make a provision for debate on an address of a visiting dignitary.

**Observation:** The Committee noted that unlike the debate allowed on the President's address to Parliament, the House currently debates an address by a visiting dignitary on a case to case basis.

**Recommendation:** Debate on a speech by a visiting dignitary should be left to the practice of the House.

### **74. Standing Order 29: Special Sittings**

Proposal to provide that any Special Sittings held after the adjournment of the House before the commencement of the next regular session of the House to be considered as falling within the previous Session.

**Observation:** The Committee observed that there was need to provide clarity for purposes of the records and journals of the House on Special Sittings held after the adjournment of a Session of the House and before commencement of the next Session for example a Special Sitting held in

January. The Taskforce was of the view that such a sitting should be considered as falling within the immediately preceding Session of the House.

**Recommendation:** Amend Standing Order 29 to include this provision.

#### **75. Standing Order 42A: Notice of Question –**

(a) In paragraph (6), replace the “Leader of the Majority Party” with a neutral term.

(b) Add new paragraph (7) to take into consideration instances of a minority government.

**Observation:** The Committee noted that Standing Order 42A does not contemplate a minority party being the party forming national government. There is therefore need to provide for such an eventuality.

**Recommendation:** Amend Standing Order 42A to provide that where the minority party is the party forming national government, the Leader of Minority Party shall perform the duties of the Leader of the Majority Party under the Standing Order.

#### **76. Standing Order 42E: Timelines for reply to Questions:**

In paragraph (2), delete “three days” and replace with “seven days.”

**Observation:** The Committee noted that there was need to provide for adequate time for a Cabinet Secretary to respond to a Question.

**Recommendation:** Following wide deliberations, it was recommended that the timelines be retained aware that the matter at hand refers to urgent questions of concern (Questions by private notice).

#### **77. Standing Order 42F: Reports on Questions**

In the opening statement, replace “progress report” with “statement.”

**Observation:** The Committee noted that there was need to require Chairpersons to make statements on Questions referred to the Committees. This would ensure the House is properly apprised on Questions under consideration.

**Recommendation:** Amend Standing Order 42F by deleting the words “progress report” and replacing with the word “statement.”

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#### **78. Questions to Independent Offices and Constitutional Commissions**

Introduce a new Standing Order to provide for the procedure applicable to Questions directed to Independent Offices and Constitutional Commissions.

**Observation:** The Committee noted that there was no provision on the procedure applicable to Questions directed to Independent Offices and Constitutional Commissions.

**Recommendation:** Amend the Standing Orders to insert a new Standing Order 42G to apply the provisions of the Part to Questions directed to Independent Offices and Constitutional Commissions.

#### **79. Standing Order 44: Statement hour**

- a) Delete “*every Thursday*” in 44(1);
- b) Include Chairperson of a Committee in paragraph (2)(b) and insert a timeline for response to Statements;
- c) Move Standing Order 84 (Personal Statements) to Statement Hour (44(2)(d));
- d) Allow a Chairperson of a Committee to make regular statements relating to the mandate of the Committee.

- e) Insert a new paragraph to require approval of a request or a response to a Statement by the Speaker at least a day before a sitting of the House.

**Observation:** The Committee noted that –

- a) The current provisions restrict the making of Statement to Thursday only. Strictly followed, this limits instances where a Member may want to request for a Statement on a day other than Thursday.
- b) The current provisions do not allow Chairpersons of Committees to make statements relating to their responsibilities in the House every Thursday.
- c) Standing Order 84 relates to Statements and should be included under Standing Order 44 on Statements.
- d) The current provisions do not allow Chairpersons of Committees to generally make statements relating to their responsibilities in the House.

**Recommendation:**

- a) Amend Standing Order 44(2)(a) by deleting the words “every Thursday”;
- b) Amend Standing Order 44(2)(b) to include Chairpersons of Committees;
- c) Amend Standing Order 44(2)(c) to provide timeline of twenty-one (21) days or such shorter period as the Speaker may direct for statements requested by Members from Committees;
- d) Insert a new sub-paragraph (2)(d) allowing Chairpersons of Committees to make general statements relating to their responsibilities in the House;

- e) Move Standing Order 84 to Standing Order 44(2)(e).
- f) Insert a new paragraph (3) requiring approval of a request or a response to a Statement by the Speaker at least a day before a sitting of the House.

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**80. Standing Order 45: Committal to committees** (*Approval of public appointments*) –

- (c) In paragraph (1), proposal to substitute the word “Departmental” with “Select” to codify the practice of committal of nominees to public offices to other committees and not only departmental committees.
- (d) In paragraph (4), proposal to increase the timeline from fourteen (14) days to twenty-one (21).

**Observation:** The Committee noted that the current provision only allowed public appointments to be committed to Departmental Committees and the Committee on Appointment and limits the period of consideration to fourteen days which may be inadequate.

**Recommendation:** Amend Standing Order 45 to allow the Speaker to commit public appointments to other committees of the House, where appropriate; and to increase the period of consideration to twenty-one days.

**81. Standing Order 52: Motions which may be moved without Notice**

Provision to be provided for exceptional Motions on tributes of the House.

**Observation:** The Committee observed that there was need to provide for Motions on tributes of the House on the demise of certain specified State officers and other dignitaries.

**Recommendation:** Amend Standing Order 52 by a new paragraph immediately after paragraph (k)—

*“(ka) an exceptional motion for the tributes of the House;”*

### **82. Standing Order 62: Instances where the Constitution requires a fixed majority**

In paragraph (2), insert *“Or such other time that the Speaker may determine”* immediately after the words *“first vote was taken.”*

**Observation:** The Committee noted that there was need to allow the Speaker discretion to determine when a further vote should be taken in instances where the Constitution required a fixed majority of the House for the approval of a matter.

**Recommendation:** Amend Standing Order 62(2) by inserting the words *“or such other time that the Speaker may determine”* immediately after the words *“first vote was taken.”*

### **83. Standing Order 87: Content of Speeches**

Proposal to limit reference to newspaper or news reports, electronic media or other such sources as reference during debate.

**Observation:** The Committee observed that there was need to restrict the use of newspaper extracts or electronic media as reference during debate. This restriction was already in place for Questions (Standing Order 42B: General rules on Questions).

**Recommendation:** Amend Standing Order 87 to restrict reference to an extract from print or electronic media as an authority in the Member’s speech.

#### **84. Standing Order 90: Declaration of interest**

Once a Member has declared interest on a matter, it ought to be entered in a register of interests. The decision for a Member to recuse themselves should be made by the person presiding depending on whether the information disclosed is likely to prejudice that Member's determination.

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**Observation:** The Committee noted that the Standing Orders did not provide for the registration of interests declared by Members and the procedure to be followed upon declaration of interest.

**Recommendation:** Amend Standing Order 90 to require the Clerk to record any declaration made in a register of interests and to empower a presiding officer to determine whether an interest declared by a Member prejudices the proceedings of the House or Committee and requires their recusal.

#### **85. Standing Order 114: Introduction of Bills**

In paragraphs (4) and (7) to increase the time given to the Budget and Appropriations Committee and Departmental Committees to report on pre-publication scrutiny from twenty-one days to thirty (30) days.

**Observation:** The Committee noted that the current provision did not allow adequate time for Committees of the House to conduct stakeholder engagements on legislative proposals.

**Recommendation:** Amend paragraphs (4) and (7) by deleting the word "twenty-one" and replacing it with "thirty".

### **86. Standing Order 114A: Speaker to exempt certain legislative proposals**

Proposal to amend Standing Order 114A to allow for exemption of any Bill introduced, published and read a Second time but lapsed at the expiry of the term of the preceding Parliament from undergoing pre-publication scrutiny under Standing Order 114 if introduced by the same Member.

**Observation:** The Committee noted that the exemption of any Bill not concluded on by a preceding Parliament from undergoing pre-publication scrutiny shall allow continuity of the legislative business of the House.

**Recommendation:** Standing Order 114A be amended to provide that a Bill that was introduced, published and read a Second time but lapsed at the expiry of the term of the preceding Parliament shall be exempted from pre-publication scrutiny if introduced by the same Member in the succeeding Parliament.

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

Delete paragraphs (2) and (3) –

**Observation:** The Committee noted that there are existing court decisions touching on the constitutionality of the Standing Order. There is need to align the Standing Order with Article 110 of the Constitution.

**Recommendation:** Amend Standing Order 121 by deleting paragraphs (2) and (3).

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

(a) In paragraph (4), increase the time given to a Committee to report its consideration on a Bill from 21 to 30 days.

(b) Exempt an Appropriation Bill, a Supplementary Appropriation Bill, a Consolidated Fund Bill, a County Allocation of Revenue Bill, a Division of Revenue Bill, an Equalization Fund Bill, and County Governments Additional Allocation Bill or a Bill to amend the Constitution in respect to its Second and Third Reading from the timelines prescribed.

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**Observation:** The Committee noted that the current provision did not allow adequate time for Committees of the House to conduct stakeholder engagements on Bills and applies the timelines applicable to ordinary Bills to an Appropriation Bill, a Supplementary Appropriation Bill, a Consolidated Fund Bill, a County Allocation of Revenue Bill, a Division of Revenue Bill, an Equalization Fund Bill, and County Governments Additional Allocation Bill or a Bill to amend the Constitution. There was need to exempt the cited Bills from the timeline prescribed.

**Recommendation:** Amend Standing Order 127(4) by deleting the word “twenty-one” and replacing it with “thirty” and introduce a new paragraph (4B) to exempt an Appropriation Bill, a Supplementary Appropriation Bill, a Consolidated Fund Bill, a County Allocation of Revenue Bill, a Division of Revenue Bill, an Equalization Fund Bill, and County Governments Additional Allocation Bill or a Bill to amend the Constitution in respect to its Second and Third Reading from the timelines prescribed.

#### **89. Part XXI: Committee of the Whole House**

Move Standing Orders 166, 167, 168, 169 and 170 to be placed after **Standing Order 130** (*Committal of Bills to Committee of the whole House*)

**Observation:** The Committee noted that Part XXI of the Standing Orders (Committee of the Whole House) was not in logical sequence as the consideration of Bills is covered under Part XIX (Public Bills).

**Recommendation:** Amend the Standing Orders to delete Standing Orders 166, 167, 168, 169 and 170 and insert them as new Standing Orders 130A, 130B, 130C, 130D and 130E.

### **90. Standing Order 174: Criteria for nomination**

Proposals to –

- (a) Entitle each Member to serve in at least one committee;
- (b) Ensure that Members belonging to parties other than parliamentary parties and independent Members are nominated to Committees;
- (c) Empower the Speaker to decline to approve presentation of a list of committee membership that contravenes this Standing Order.

**Observation:** The Committee noted that in the Speaker's Communication issued on 9<sup>th</sup> June 2020, the Speaker had directed the Procedure and House Rules Committee to propose amendments on the entitlement of Members belonging to parties other than parliamentary parties and independent Members to Committees of the House.

**Recommendation:** Amend Standing Order 174 –

- (a) in paragraph (1) by inserting a new sub-paragraph entitling each Member to serve in at least one Committee;
- (b) by inserting new paragraphs (2A) and (2B) to provide that Members belonging to parties other than parliamentary parties and independent Members shall be nominated to Committees of the House; and to empower the Speaker to decline to approve

presentation of a list of committee membership that contravenes Standing Order 174, respectively.

### **91. Standing Order 178 and 188: Chairing of Committees and Absence of Chairperson and Vice-Chairperson**

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- (a) Provide for a **First** and **Second Vice-Chairperson** for each Committee and that one of which should be from the Minority Party. The committees to only elect a chairperson in the absence of the Chairperson and the two Vice Chairpersons.
- (b) Restrict a Member elected as a Vice Chairperson from serving as such in more than one committee.

**Observation:** The Committee noted that there was need to ensure certainty and continuity of committee business in the absence of the substantive Committee leadership. No additional facilitation to be accorded to the first and second vice-chairpersons except when performing the duties of the chairperson. Additionally, there is currently no restriction of a Vice Chairperson of a Committee from being elected as a Vice Chairperson of another Committee.

**Recommendation:**

- (a) Amend Standing Order 178 –
  - (i) in paragraph (1) by deleting the word “Vice-Chairperson” appearing immediately after the words “Chairperson and” and substituting therefor the words “two Vice-Chairpersons”;
  - (ii) in paragraph (2) by inserting the word “one” immediately after the words “Chairperson and”;
  - (iii) in the opening statement of paragraph (3) by inserting the word “one” immediately after the words “Chairperson and”;

(iv) by inserting the following new paragraph immediately after paragraph (3)—

“(4) A Vice-Chairperson of a Committee shall not be eligible to stand for election as a Chairperson or Vice-Chairperson of another Committee.”

(b) Amend Standing Order 188 by deleting the word “Vice-Chairperson” appearing immediately after the words “Chairperson and” and substituting therefor the words “both Vice-Chairpersons”;

### **92. Standing Order 181: Notice of meetings**

Proposal to include text messages (SMS) as constituting delivery of a notice of a meeting.

**Observation:** The Committee noted that there was need to include electronic means of communication as a mode of issuing notices to Members.

**Recommendation:** Amend paragraph (2) by deleting the words “through the email addresses of a Member” appearing immediately after the word “circulation” and substituting therefor the words “by electronic means to a Member’s official communication address or number”

### **93. Standing Order 183: Sub-committees of select committees –**

(a) Delete the word “select” on the title of the Standing Order to read – Sub-committees of committees.

(b) Include a provision that the number of Members of a sub-committee shall not be less than the quorum of the main committee.

(c) The quorum of a sub-committee be prescribed at three (3) Members.

(d) Provide for the reporting to the main committee by a sub-committee.

- (e) Provide for the adjournment of sub-committee sittings for lack of quorum similar to the provisions under Standing Order 185: *Adjournment for lack of quorum*.

**Observation:** The Committee noted that there was need to regulate the formation, membership, and responsibilities of subcommittees.

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**Recommendation:** Amend the Standing Order by—

- (a) deleting the words “select committees” in its title;
- (b) adjournment of the meeting of a subcommittee if its quorum is not achieved within thirty minutes of the appointed time of a meeting; and regular reporting by a subcommittee, respectively.

#### **94. Standing Order 199: Reports of select committees**

- (a) In paragraph (4) introduce a provision requiring that the names of Members supporting the adoption of a committee report shall be recorded in the minutes and appended in the report as an annexure.
- (b) in paragraph (5) replace the word “report” appearing immediately after the word “dissenting” and substituting therefor the word “opinion”;
- (c) In paragraph (6) replace “minority report” with “minority opinion.”

**Observation:** The Committee noted that the provision did not require the names of Members supporting the adoption of a committee report shall be recorded in the minutes and appended in the report as an annexure. However, it was the view of the Committee that this ought to be dealt with administratively. Additionally, the Committee was of the view that instead of referring to the views of a section of Members of the Committee as ‘a dissenting opinion’, the term ‘minority opinion’ would more suitable.

**Recommendation:** Amend Standing Order 199 –

- (i) in paragraph (5) deleting the word “report” appearing immediately after the word “dissenting” and substituting therefor the word “opinion”;
- (ii) in paragraph (6) by deleting the words “minority report” and replacing them with “minority opinion”;

#### **95. Standing Order 200: Progress reports by Select Committees**

Proposal that the half yearly report by Select Committees on their activities be revised to quarterly.

**Observation:** The Committee noted that there was need for Committee to make more regular reports to the House on their activities.

**Recommendations:** Amend Standing Order 200 in paragraph (1) by deleting the words “half yearly” appearing immediately after the word “submit” and substituting therefor the word “quarterly”.

#### **96. Standing Order 200A: Exit Reports**

Proposal to amend Standing Order 200A to require each Committee to table an exit report to the Assembly at the expiry of its term on the matter transacted by the Committee including any pending business.

**Observation:** The Committee noted that there was need to provide for continuity on the functions of Committees on matters under their mandate. It would be important for succeeding Committee to be apprised of key achievements by the preceding Committee and also of any pending matters of concern.

**Recommendation:** Amend Standing Order 200A by deleting paragraph (1) and substituting therefor the following new paragraph—

*“(1) The Chairperson of each Committee shall table an exit report to the Assembly at the expiry of its term.”*

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### **97. Standing Order 204: Committee on Appointments**

Proposal to have the Committee on Appointments chaired by the Majority Leader and deputized by Leader of the Minority Party as the First Vice Chairperson. The Second Vice Chairperson should be elected by Members of the committee. The amendment should provide for cases of a minority Government.

**Observation:** The Committee noted that the Speaker who is elected by the House at the beginning of a new Parliament is best suited to Chair the Committee to ensure that the Executive is constituted in good time should parties delay in designating the Leaders of the Majority and Minority Parties after a general election. The Committee therefore ought to be chaired by the Speaker. The Membership of the committee to be capped at 21 from the current 28 Members.

**Recommendation:** Retain the composition of the Committee on Appointments as provided currently with reduced membership.

### **98. Standing Order 216: Appointment and mandate of Departmental Committees**

- (a) proposal to reduce the membership of departmental committees in paragraph (1)(b);
- (b) delete paragraph (5)(h) as it is a repetition of (5)(g).

(c) include examination of budget and monitoring of budget implementation as part of the mandate of committees.

(d) Proposal to limit committees from interrogating matters that are outside their mandates or which are under active consideration by a Committee of the House.

**Observation:** The Committee noted that the membership of Departmental Committees did not allow for the effective and efficient discharge of parliamentary business. Additionally, the general mandate of Departmental Committees did not include oversight of the national budget and the in-year monitoring of its implementation.

**Recommendation:** Amend Standing Order 216 –

- (a) to reduce the membership of departmental committees from nineteen to fifteen;
- (b) to require Departmental Committees to monitor and report on the implementation of the national budget on a quarterly basis;
- (c) to delete subparagraph (5)(h).

### **99. Standing Order 224: Time for Petitions**

Proposal to remove the time limitation for debate on Petitions.

**Observation:** The Committee noted that in furtherance of the dictates of Article 119 of the Constitution on the right to petition Parliament, the time limitation of the thirty minutes for debate on Petitions is restrictive and ought to be removed.

**Recommendation:** Delete Standing Order 224 which provides that the total time on the Order “Petitions” shall not exceed thirty minutes.

## 100. Standing Order 227: Committal of Petitions

- (a) Proposal to establish a Committee to exclusively handle Petitions to which petitions will be committed.
  - (b) In paragraph (2), increase the timelines for consideration of petitions from 60 to 90 days.
- 
- (c) Introduce a provision to allow debate on specified Petitions where necessary

**Observation:** The Committee noted that there was need to establish a committee to consider Petitions to the House, advise on which Petitions should be debated and to increase the period for the consideration of petitions. Establishment of the Committee would better actualize the provisions of Articles 37 and 119 of the Constitution on the right to petition Parliament.

### **Recommendation:**

- (a) Amend the Standing Orders to insert a new Standing Order establishing a Public Petitions Committee;
- (b) Amend Standing Order 220 (1) by inserting “subject to the recommendation of the Public Petitions Committee” immediately before the word “a petition”.
- (c) Amend Standing Order 227(2) to delete the word “sixty” and replace with the word “ninety” insert a new paragraph to empower the Public Petitions Committee to recommend debate on a report on petition.

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

Create clarity on the presentation of the Debt Management Strategy by creating a separate Standing Order to provide for the process separately from the presentation of the Budget Policy Statement;

**Observation:** The Committee noted that there was need to amend Standing Order 232 to create clarity on the process of presentation of the Debt Management Strategy by creating a new Standing Order to provide for the process separately from the presentation of the Budget Policy Statement.

**Recommendation:** Amend Standing Order 232 to remove the process of presentation of the Debt Management Strategy from the Standing Order and effect editorial changes in paragraph (9) by deleting the words “and where necessary” appearing immediately after the words “the National Government, the Judiciary and Parliament” and the word “among” and replace with “between”.

### **102. Standing Order 235: Presentation of Budget Estimates and committal to Committees**

Proposal to require that where the Budget and Appropriations Committee recommends any changes, variations or re-allocations in the Estimates, the Budget and Appropriations Committee shall include in its recommendations an itemized schedule outlining the proposed changes, variations or re-allocations specific to each Vote, Sub-Vote, Programme, project, target and outputs.

**Observation:** The Committee noted that there was need to provide sufficient information to the House during the consideration of the estimates at the

Committee of Supply. The amendment shall aid Members of Parliament especially those who are not members of the respective Departmental Committees affected by the proposed changes to make informed decisions during the consideration of every Vote and program at the Committee of Supply.

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**Recommendation:** Amend Standing Order 235 by inserting the following new paragraph immediately after paragraph (5) —

(6) Where the Committee recommends any changes, variations or re-allocations in the Estimates, the Budget and Appropriations Committee shall include in its recommendations under paragraph (5) an itemized schedule outlining the proposed changes, variations or re-allocations specific to each Vote, Sub-Vote, Programme, Project, target and outputs.

**103. Standing Order 240B: Appropriation Bill and Equalization Fund  
Appropriation Bill**

Proposal to require that upon passage of the Appropriations Bill, the Clerk shall, as soon as practicable, certify in writing any changes made to a Vote or a programme and indicate any reallocations, increases, or decreases made by the National Assembly to a Vote, Sub-Vote, Programme, project, targets and outputs. Standing Order 240B should further be amended to mandate the Budget and Appropriations Committee to ensure that any reallocations, increases, or decreases made by the National Assembly to the Estimates with respect to any Vote, Sub-Vote, Programme, project, targets and outputs are incorporated in the republished final approved budget books.

**Observations:** The Committee noted that in order to improve transparency in budgeting and entrench the exercise of the power to review the estimates, the amendment seeks to reflect the changes made by the House during the approval of the Appropriations Bill by capturing the said changes in a detailed way at the level of Vote, program, project, target as well outputs.

The Committee further noted that apart from being a record of the decisions of the House, the information shall be communicated to the National Treasury promptly to ensure correspondence between the changes intended by the House and the actual implementation of the budget by the MDAs. The information shall also assist the relevant Committees in the oversight of expenditure during budget implementation.

**Recommendation:** Amend Standing Order 240B by inserting the following new paragraphs immediately after paragraph (4)—

- (5) Upon passage of the Appropriations Bill, the Clerk shall, as soon as practicable, certify in writing any changes made to a Vote or a programme and indicate any reallocations, increases or decreases made by the House to a Vote, Sub-Vote, Programme, project, target or outputs to facilitate the Cabinet Secretary responsible for finance to republish the final approved Estimates.
- (6) Following the enactment of the Appropriations Act, the Budget and Appropriations Committee shall ensure that any reallocations, increases, or decreases made by the House to the Estimates with respect to any Vote, Sub-Vote, Programme, project, targets and outputs are incorporated in the republished final approved budget books.

#### 104. Standing Order 243: Procedure on Supplementary Estimates

Proposal to provide clarity on the procedure for consideration of the supplementary estimates by the Budget and Appropriations Committees in order to ensure compliance with the requirements of Article 223 of the Constitution and the Public Finance Management Act or any other law and the principles and values of public finance as set out in Article 201 of the Constitution.

**Observation:** The Committee noted that there was need for Departmental Committees and the House to verify withdrawals given that the approval is sought after monies have been withdrawn and spent. This would ensure compliance with the conditions set out in Article 223 of the Constitution.

The Committee further noted that the Supplementary Budget should solely deal with provisions seeking approval for money already withdrawn and spent by the National Government in line with Article 223 of the Constitution. The amendment also sought to provide for Committees to access documents involved in authorizing withdrawals and spending of monies prior to approval by the National Assembly.

**Recommendation:** Amend Standing Order 243 to provide that –

- (a) The supplementary budget submitted by the national government shall contain justifications and necessary financial documents as evidence for the money spent and a separate schedule for expenditure made under Article 223 of the Constitution and any ordinary re-allocations made to any vote among other things.
- (b) The Report of the Budget and Appropriations Committee to the House on Supplementary Estimates shall include an examination of the compliance of the proposed Supplementary Estimates with

the conditions set out in Article 223 of the Constitution and any other law; the principles and values of public finance under Article 201 of the Constitution and shall only contain provisions for money already withdrawn and spent by the National Government in accordance with Article 223 of the Constitution.

- (c) Further, require the report of the Budget and Appropriations Committee to contain separate schedules for expenditure made under Article 223 of the Constitution.
- (d) Require the Departmental Committees in examining the Supplementary Estimates and making recommendations to the Budget and Appropriations Committee to also comply with the requirements of the Standing Order 243(3).
- (e) Mandate the Clerk to maintain a specific register for noting any requests for approvals made by the Cabinet Secretary responsible for finance pursuant to Article 223 of the Constitution and facilitate the timely tabling of all such requests.

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

In paragraph (4) by deleting the words “ninety days after passing the Appropriation Bill,” and substituting therefor the words “30<sup>th</sup> June each year,”.

**Observation:** The Committee noted that there was need to harmonize the timeline for passage of the Finance Bill by aligning the Standing Order with the timeline spelt out in the Public Finance Management Act, 2012 which provides that the Finance Bill shall be passed not later than 30<sup>th</sup> June of each year.

**Recommendation:** Amend Standing Order 245 in paragraph (4) by deleting the words “ninety days after passing the Appropriation Bill,” and substituting therefor the words “30<sup>th</sup> June each year,”

#### **106. Standing Order 248: Hansard Reports**

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Provide for verbatim reports of committee proceedings within 72 hours where a committee is taking evidence. Instances where this rule shall not apply will be provided for by the Speaker.

**Observation:** The Committee noted that there was need to provide for the production of verbatim reports of Committee proceedings.

**Recommendation:** Amend Standing Order 248 to require publication of a verbatim report of all proceedings of a Committee of the House where evidence is given within seventy-two hours, unless the Speaker is satisfied that this is rendered impossible by some emergency.

#### **107. Standing Order 249: Secret or personal matters**

Amend the Standing Order to include proceedings of committees and not just plenary.

**Observation:** The Committee noted that there was need to ensure that matters that are purely secret or personal are not only excluded from the journals of the House but also Committee Proceedings.

**Recommendation:** Amend Standing Order 249 by inserting the words “and its committees” immediately after the words “proceedings of the House”.

#### **108. Standing Order 250: Broadcast of House Proceedings**

Provide for the broadcast of the proceedings of committees.

**Observation:** The Committee noted that there was need to anchor the broadcast of proceedings of Committees in the Standing Orders.

**Recommendation:** Amend Standing Order 250 in paragraphs (1) and (2) by inserting the words “and its committees” immediately after the words “the House”.

#### **109. Standing Order 252: General provisions on access to the House**

A proposal to require persons to request for in-camera sittings prior to their appearance before Committees of the House.

**Observation:** The Committee observed that the Standing Order did not require a person who proposes to be heard in-camera to make prior request to a Committee of the House and may lead to arbitrary exclusion of members of the public and the press from committee proceedings. This may contravene the provisions of Article 118 of the Constitution which requires Parliament to conduct its business in an open manner and to facilitate public participation and involvement in its business.

**Recommendation:** Amend the Standing Order to require any person who proposes to be heard in-camera to make a written request to a Committee of the House at least 24 hours before their appearance. Additionally, require a Committee to whom a request is made for an in-camera sitting to consider the request taking into account the public interest and to report to the House each time they accede to such requests and the reason for their decision.

#### **110. Departmental Committees**

Proposal to have five (5) additional Departmental Committees to increase efficiency of current structures.

**Observation:** The Committee noted that the current number of Departmental Committees did not allow for the effective and efficient discharge of parliamentary business. There was therefore need to reconsider the mandate of the various Departmental Committees as compared to their performance during the term of Parliament; and provide for increased specialization of the Committees of the House.

**Recommendation:** Amend the Second Schedule to the Standing Orders to split the existing Departmental Committees and reorganize the mandates of the committees as follows –

Committee title	Subject matter
Administration & Internal Affairs	Home affairs, internal security – including police services and coast guard services, public administration, immigration and citizenship.
Agriculture & Livestock	Agriculture, livestock, food production and marketing.
Communication, Information & Innovation	Communication, information, media and broadcasting (except for broadcast of parliamentary proceedings), information technology, communication technology, including development and advancement of technology, data protection and privacy, cyberspace and cyber-security, artificial intelligence, block-chain technology, and other emerging technologies.
Defence, Intelligence & Foreign Relations	Defence, intelligence, foreign relations, diplomatic and consular services, international boundaries including territorial waters, international relations, and veteran affairs.
Education	Education, training, curriculum development, and research.
Energy	Fossil fuels exploration, development, production, maintenance and distribution, nuclear energy, clean energy and regulation of energy.
Environment, Forestry & Mining	Climate change, environment management and conservation, forestry, mining and natural resources, pollution, waste management.

Finance & National Planning	Public finance, public audit policies, monetary policies, financial institutions (excluding those in securities exchange), economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
Health	Health, medical care and health insurance including universal health coverage.
Housing, Urban Planning & Public Works	Housing, public works, urban planning, metropolitan affairs, housing development and built environment.
Justice and Legal Affairs	Judiciary, tribunals, access to justice, public prosecutions, ethics, integrity & anti-corruption, correctional services, community service orders and witness protection, Constitutional affairs, sovereign immunity, elections including referenda, human rights, political parties, the State Law Office, including, insolvency, law reform, public trusteeship, marriages and legal education.
Labour	Labour including migrant labour, human capital and remuneration, trade union relations and public service.
Lands	Matters related to lands and settlement including, land policy, land transactions, survey & mapping, land adjudication, settlement, land registration, land valuation, administration of community and public land and land information & management system
Regional Development	Regional development, including regional development authorities; refugee affairs; devolution; inclusive growth; arid and semi-arid areas; disaster risk management; drought, famine and disaster response; and post-disaster recovery and rehabilitation.
Social Protection	Social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
Sports & Culture	Sports, culture, language, creative economy including promotion of music, arts, film promotion and development, national heritage and betting & lotteries.
Tourism & Wildlife	Tourism & tourism promotion and management, tourism research and wildlife management.

Trade, Industry and Cooperatives	Trade, including securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion & development including micro, small & medium enterprises (MSMEs), and small and medium enterprises (SMEs), intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.
Transport & Infrastructure	Transport, including non-motorized transport, construction and maintenance of roads, rails, air and marine transport, seaports and national integrated infrastructure policies and programmes and transport safety.
Water, Fisheries & Irrigation	Use and regulation of water resources, irrigation, fisheries development including promotion of aquaculture, fish farming, marine fisheries and blue economy.

#### 111. Tenure of Committees

Proposal to have a three- and two-year tenure for the following Committees–

- a) *Public Accounts Committee (S.O. 205),*
- b) *Special Funds Account (S.O. 205A),*
- c) *Pubic Investments Committee (S.O. 206),*
- d) *Budget & Appropriations Committee (S.O. 207),*
- e) *Committee on Implementation (S.O. 209),*
- f) *Committee on Delegated Legislation (S.O. 210),*
- g) *Committee on Regional Integration (S.O. 212),*
- h) *Committee on National Cohesion & Equal Opportunity (S.O. 212C),*
- i) *Committee on Parliamentary Broadcasting & Library (S.O. 212D);*

*New Committees*

- j) *Public Petitions Committee*
- k) *Public Debt and Committee*
- l) *Decentralized Funds Accounts Committee*

**Observations:** The Committee noted that there was need to split the tenure of the non-departmental Committees for purposes of efficiency.

**Recommendation:**

- (a) Amend Standing Orders 205, 205A, 206, 207, 209, 210, 212, 212C and 212D to include a paragraph requiring the Committee constituted immediately following a general election to serve for a period of three calendar years and the Committee constituted thereafter to serve for the remainder of the parliamentary term.
- (b) Provide that the *Public Petitions Committee*, the *Public Debt Committee* and the *Decentralized Funds Accounts Committee* constituted immediately following a general election to serve for a period of three calendar years and the Committee constituted thereafter to serve for the remainder of the parliamentary term.

**112. Proposal for establishment of a Public Debt Committee**

Proposal to amend the Standing Orders to establish a Committee to be responsible for oversight of public debt, examination of all matters relating to debt guarantees by the National Government.

**Observation:** The Committee noted that there was need to establish a Committee to be responsible for examination of all matters related to Public Debt and examination of all matters relating to debt guarantees by the National Government. As it is presently, matters of public debt are examined by the Budget and Appropriations Committee but only in respect to the Debt Management Strategy. The Committee also noted that there was no Committee exclusively responsible for examination of matters relating to oversight of public private partnership programmes by the national government. Consequently, there was need to create a Committee to exclusively examine matters relating to public debt, oversight of

consolidated fund services excluding audited accounts among other related functions.

**Recommendation:** Amend the Standing Orders to establish a Public Debt Committee to be responsible for —

- (a) oversight of public debt and guarantees pursuant to Article 214 of the Constitution ;
- (b) examination of matters relating to debt guarantees by the National government;
- (c) oversight of consolidated fund services excluding audited accounts;
- (d) examination of reports on the status of the economy;

### **113. Proposal for Review of the Mandate of the Special Funds Accounts Committee**

Proposal to amend Standing Order 205A which establishes the Special Funds Accounts Committee to provide clarity on its mandate by providing that its functions shall only extend or apply in respect to the examination of reports of Auditor General on funds established by statute or by subsidiary legislation, except the examination of the accounts of the National Government Constituencies Development Fund and its Board; the National Government Affirmative Action Fund and its Board and the Equalization Fund and its Board.

**Observation:** The Committee noted that in order to create efficiency on the discharge of the functions of the Special Funds Accounts Committee, there is need to delineate its mandate and exclude decentralized Funds which are the National Government Constituencies Development Fund; the National Government Affirmative Action Fund and the Equalization Fund from its purview and establish a new Committee to be responsible for these Funds. The splitting of the mandate of the Committee is intended to ease

the work load of the Special Funds Accounts Committee and improve on its efficiency.

**Recommendation:** Amend Standing Order 205A to delineate the mandate of the Special Funds Accounts Committee as follows:

- (1) The Committee shall be responsible for the examination of reports of Auditor General on –
  - (a) funds established by statute or by subsidiary legislation, except Funds under Standing Order 205B (Decentralized Funds Accounts Committee);
  - (b) the Equalization Fund; and
  - (c) the Equalization Fund Advisory Board.
- (2) The Committee shall not examine matters of policy or day-to-day administration of the special funds.
- (3) Allow the Speaker from time to time, publish a schedule specifying the funds falling within the mandate of the Committee.

**114. Proposal for establishment of a Decentralized Funds Accounts Committee**

Proposal amend the Standing Orders to establish a Decentralized Funds Accounts Committee to be responsible for the examination of the reports of the Auditor General on the accounts of –

- a) The National Government Constituencies Development Fund;*
- b) The National Government Constituencies Development Fund Board;*
- c) The National Government Affirmative Action Fund; and*
- d) The National Government Affirmative Action Fund Board;*

**Observation:** The Committee noted that there was need to establish a new Committee to be responsible for examination of reports of Auditor General on

the accounts of the National Government Constituencies Development Fund and its Board; the National Government Affirmative Action Fund and its Board and the Equalization Fund and its Board. The creation of this new Committee shall create efficiency in the examination of the accounts of the Funds and ease the workload on the Special Funds Accounts Committee which is presently to also examine the accounts of these Funds.

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**Recommendation:** Amend the Standing Orders to –

- (i) establish a Decentralized Funds Accounts Committee to be responsible for the examination of the reports of the Auditor General on the accounts of –
  - a) *The National Government Constituencies Development Fund;*
  - b) *The National Government Constituencies Development Fund Board;*
  - c) *The National Government Affirmative Action Fund; and*
  - d) *The National Government Affirmative Action Fund Board.*
- (ii) parties other than parliamentary parties forming the national government to have a majority membership.

#### **115. Proposal to review and split the mandate of the Public Investments Committee**

Proposal amend Standing Order 206 to split the mandate of the Public Investments Committee into three sectoral areas or functions which are Commercial Affairs and Energy, Social Services and Administration and Agriculture and Governance and Education and create three Committees to be responsible for each of these three sectoral areas or functions.

**Observation:** The Committee noted that there was need to improve on the efficiency of the Public Investments Committee as currently established. As

it is presently, the Committee has a huge workload that has created backlog in performance of its functions. The splitting of its mandate into three and subsequent creation of two additional Committees is geared towards creating efficiency in performance in its functions. The Committee however noted that there would be need to create a sunset clause to provide that at the end of each Assembly the Committee should revert to its current form if need be. It is expected that the splitting of the mandate into three shall ease the workload and clear the backlog on the examination of the reports and accounts of public investments.

**Recommendation:** Amend Standing Order 206 to establish three Committees as follows –

**(1) Public Investments Committee on Governance and Education**

The Committee shall, with regard to the education, defence, governance, justice and law and order sectors be responsible for examination of the reports and accounts of public investments and the reports, if any, of the Auditor General on public investments.

**(2) Public Investments Committee on Commercial Affairs and Energy**

The Committee shall, with regard to the energy, environment, general economic and commercial affairs sectors be responsible for examination of the reports and accounts of public investments and the reports, if any, of the Auditor General on public investments; and

**(3) Public Investments Committee on Social Services, Administration and Agriculture**

The Committee shall, with regard to the agriculture, public administration, health, and social protection sectors be responsible for

examination of the reports and accounts of public investments and the reports, if any, of the Auditor General on public investments.

*The Chairpersons of the Committees to be elected from parties other than parliamentary parties forming the national government.*

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#### **116. Proposal to provide for a procedure for Members to pay tributes**

Proposal to amend the Standing Orders to provide for a procedure for the Members to make tributes in the House following the demise of the President or the Deputy President, a retired President or Deputy President, the Chief Justice or retired Chief Justice, Speaker of a House of Parliament or a retired Speaker or a Member.

**Observation:** The Committee noted there is need to provide for the procedure of paying tributes by the Members in the House following the demise of the President or the Deputy President, a retired President or Deputy President, the Chief Justice or retired Chief Justice, Speaker of a House of Parliament or a retired Speaker or a Member.

**Recommendation:** Insert a New Standing Order to provide that the Speaker shall report to the assembled House the demise of the President or the Deputy President; a retired President or Deputy President; the Chief Justice or a retired Chief Justice; the Speaker of a House of Parliament or a retired Speaker; or a Member.

The Standing Order should further allow Members to make short speeches or pay tribute following a report made under the Standing Order and allow a Member with leave of the Speaker, to report the demise of a former Member or other national leader. Additionally, the Standing Orders should empower the Speaker to summon the House for a Special Sitting to report the demise of the President or the Deputy President or a

retired President or Deputy President. Further, Standing Order 52 should be amended to provide that tributes in the House shall be made by way of an exceptional Motion which may be moved without.

**117. Proposal to include a procedure for the selection of Members to the committee responsible for privilege and conduct of Members**

Proposal to provide for a criteria for the selection of Members to serve in the committee responsible for privilege and conduct of Members to accord with best practice in other comparative jurisdictions.

**Observation:** The Committee observed that there was need to provide for the procedure of selecting Members to the Committee responsible for privileges in view of the mandate of the Committee. In comparative jurisdictions, Members to the committee responsible for privilege and conduct of Members are selected from high-ranking members with exceptional service to the House, as well as consideration of previous professional service and experience.

**Recommendation:** Amend the Standing Orders to include considerations to be made in selecting Members to the committee responsible for privileges.

**118. Procedure of monitoring of the Budget Implementation**

Proposal to provide for a procedure of monitoring of budget implementation.

**Observation:** The Committee noted that the Standing Orders do not provide for monitoring of the implementation of the National Budget by the Budget and Appropriations Committee which therefore limits the oversight role of the House over the national budget. The Committee hence

noted that there was need to amend the Standing Orders to create mechanisms through which the Budget and Appropriations Committee and Departmental Committees can monitor the implementation of the national budget.

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**Recommendation:** Amend the Standing Orders to provide for a procedure for the Budget and Appropriations Committee to examine the implementation of the National Budget by among other things reviewing quarterly reports submitted by the Cabinet Secretary responsible for finance pursuant to the Public Finance Management Act. The Standing Orders should also mandate each Departmental Committee to also examine and report on the expenditures and non-financial performance of the Budget of the national government.

#### **119. Proposal for establishment of a Committee on Diaspora and Migration**

Proposal to establish a Committee on diaspora and migration matters to be responsible for, *inter alia*, the protection of the rights of Kenyans and their families in the diaspora, matters relating to diaspora remittances and linkage to economic development and socio-cultural inclusion, examining structures for collaboration and connections for Kenyans in the diaspora, and diaspora suffrage.

**Observation:** the Committee noted that there was need to create a Committee to exclusively handle matters relating to Kenyans in the diaspora and the attendant facilitation of their rights to participate in the social, economic and political development of the country.

**Recommendation:** Amend the Standing Orders to establish a select committee on diaspora affairs and migration.