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THE SENATE

TWELFTH PARLIAMENT
THIRD SESSION

STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE
AND FOREIGN RELATIONS

A REPORT ON THE PUBLIC PARTICIPATION ON
REGISTRATION OF PERSONS (AMENDMENT) BILL
(SEN.BILLS NO. 14 OF 2019)

NOVEMBER, 2019

*Clerk's Chambers
The Senate
Parliament Buildings
NAIROBI*

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ABBREVIATIONS AND ACRONYMS

CBS	Chief of the Order of the Burning Spear
EGH	Elder of the Order of the Golden Heart of Kenya
IPSK	Intersex Persons Society of Kenya
KNCHR	Kenya National Commission on Human Rights
MP	Member of Parliament
PS	Principles Secretary
Sen	Senator
TEA	Transgender Education and Advocacy

PREFACE

Establishment and Mandate of the Committees

The Senate Standing Committee on National Security, Defence and Foreign Relations is established under Standing Order 218 (1) of the Senate Standing Orders. The Committee is mandated to consider all matters relating to national security and foreign relations, disaster reduction and preparedness, home affairs, defence, immigration, and international relations.

Committee Membership

The following are Members of the Committee-

1. Sen. Yusuf Haji Mohamed, EGH, MP -Chairperson
2. Sen. Johnson Arthur Sakaja, CBS, MP
3. Sen. Fatuma Dullo, CBS, MP
4. Sen. Moses Masika Wetangula, EGH, MP
5. Sen. Susan Wakarura Kihika, MP
6. Sen. Judith Pareno, MP
7. Sen. Fred Outa, MP
8. Sen. Beatrice Kwamboka, MP
9. Sen. Anwar Loititip, MP

Mr. Speaker,

The Registration of Persons (Amendment) (Senate Bills No. 14 of 2019) sponsored by Sen. (Dr.) Isaac Mwaura, MP seeks to amend the Registration of Persons Act, and the Births and Deaths Registration Act in order to make provisions for the registration of persons born with both male and female reproductive organs (also referred to as intersex persons).

The Committee considered the Bill at length, conducted public participation and deliberated on the submissions received. Based on the deliberations and public participation, the Committee will present amendments with the view of strengthening the provisions of the Bill for consideration by this House.

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate as well as the Secretariat comprised of Ms. Rose Mudibo, Ms. Moses Kenyanchui and Ms. Clare Kidombo for the support extended to it in the conduct of the public hearings and in fulfilling its mandate.

Further it wishes to thank stakeholders who made both written and oral submissions during the public participation including the Ministry of Interior and Coordination of National Government; Kenya National Commission on Human Rights (KNCHR); Ministry of Health; Ministry of Education, Science and Technology; the Intersex Persons Society of Kenya (IPSK); and the Transgender Education and Advocacy (TEA).

Mr. Speaker,

It is now my pleasant duty, pursuant to Standing Order 137, to present the Report of the Standing Committee on National Security, Defence and Foreign Relations on the Registration of Persons (Amendment) (Senate Bills No. 14 of 2019).


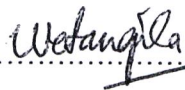
Signed.....

Date.....19-11-2019

SEN. YUSUF HAJI MOHAMED, EGH, MP
CHAIRPERSON, STANDING COMMITTEE ON NATIONAL SECURITY,
DEFENCE AND FOREIGN RELATIONS

ADOPTION OF THE REPORT

We, the undersigned Members of the Standing Committee on National Security, Defence and Foreign Relations of the Senate, do hereby append our signatures to adopt this Report-

1. Sen. Yusuf Haji Mohamed, EGH, MP **Chairperson** 
2. Sen. Johnson Arthur Sakaja, CBS, MP **Vice-Chairperson** 
3. Sen. Fatuma Dullo, CBS, MP Member
4. Sen. Moses Wetangula, EGH, MP Member 
5. Sen. Susan Wakarura Kihika, MP Member
6. Sen. Judith Pareno, MP Member 
7. Sen. Fred Outa, MP Member 
8. Sen. Beatrice Kwamboka, MP Member
9. Sen. Anwar Loititip, MP Member

CHAPTER ONE INTRODUCTION

1.0 Background

1. The Registration of Persons (Amendment) Bill (Senate Bills No. 14 of 2019) seeks to amend the Registration of Persons Act, and the Births and Deaths Registration Act in order to make provisions for the registration of persons who cannot be categorized in the common binary of male or female (also referred to as intersex persons). The Bill is sponsored by Sen. (Dr.) Isaac Mwaura.
2. The Bill was published on 26th July, 2019 and was read a First Time on 11th September, 2019. Following the First Reading in the Senate, it stood committed, pursuant to Standing Order 134(1), to the Standing Committee on National Security, Defence and Foreign Relations for facilitation of public participation. Subsequently, the Committee, pursuant to Article 118 of the Constitution and Standing Order 134 (5), invited submissions from members of the public on the Bill vide an advertisement on the Standard Newspaper and the Daily Nation newspapers and conducted a public hearing on 16th October, 2019 at the Mini Chamber, County Hall, Parliament Buildings at 10am.

1.1. The Object of the Bill

3. The Registration of Persons Act, Cap. 107 was enacted in 1949 to make provision for the registration of persons and for the issue of an Identity Card. Pursuant to section 5 of this Act, the Principal Registrar is required to keep a register of all persons containing information such as the name of the person, registration number and sex. Additionally, section 6 makes it mandatory for a person who has attained the age of eighteen years to be registered and issued with an Identity Card. However, the Act has not defined the word 'sex' which is traditionally used to mean either male or female.
4. The Births and Deaths Registration Act, Cap. 149 on the other hand was enacted in 1926 to provide for the notification and registration of births and deaths. Pursuant to section 7, the Registrar is required to keep a register of births and a register of deaths containing the prescribed particulars. The prescribed particulars as set out under section 2 include the name, sex and date. Like the Registration of Persons Act, the Births and Deaths Registration Act has not defined the word 'sex'.

5. This Bill therefore seeks to amend the Registration of Persons Act, and the Births and Deaths Registration Act in order to make provisions for the registration of intersex persons..

1.2. Overview of the Bill

6. Clause 2 of the Bill proposes to amend the Registration of Persons Act by inserting the definition of the words 'intersex' and 'sex' so as to take into account a third gender, intersex, in addition to the two traditionally recognized genders (male and female). The proposed definitions are –

(a) "intersex" means a person born with physical or genetic features that are neither fully male nor fully female, or a combination of male and female, or neither male nor female; and

(b) "sex" means either male, female or intersex.

7. Clause 3 on the other hand proposes to insert a new section 9B to the Registration of Persons Act to provide for change of particulars of an intersex person. It is proposed that an intersex person who undergoes medical procedures and becomes male or female shall within six months of the procedure, inform the Registrar of persons for in order for the change of the particulars to be effected in the Register. Once a change of particulars has been noted, the old identity card will be surrendered to the Registrar of persons and a temporary waiting card issued pending issuance of a new identity card.
8. Clause 4 of the proposed Bill seeks to amend section 2 of the Births and Deaths Registration Act by inserting the definition of the word 'sex'. The definition of the word 'sex' will be that proposed under the Registration of Persons Act under clause 2.

1.3. Definition of intersex persons

9. The binary categorisation of one being either male or female at childbirth is not obvious for all births. In some cases, a child's sex cannot be clearly ascertained at birth due to marked differences in their sex characteristics. Persons who fall in this category are therefore referred to as intersex.
10. Various entities have defined intersex persons as follows-

- (i) The Intersex Society of North America defines Intersex as a “*general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn’t seem to fit the typical definition of female or male.*”¹”
- (ii) According to the United Nations Free & Equal Campaign Fact Sheet, “*intersex people are born with sex characteristics (including genitals, gonads and chromosomal patterns) that do not fit typical binary notions of male or female bodies*”².”
- (iii) The Centre for Human Rights, Pretoria, defines ‘intersex’ as “*an umbrella term used to describe people who are born with natural sex characteristics including (genitals, gonads and chromosome patterns) that do not fit typical binary notions of male or female bodies.*”³ Additionally, it states that variations of intersex traits may be visible, while others only manifest during puberty.
- (iv) The definition adopted by the *Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons* is that “Intersex” means “*A person who is conceived and born with a biological sex characteristic that cannot be exclusively categorised in the common binary of female or male due to their inherent and mixed anatomical, hormonal, gonadal (ovaries and testes) or chromosomal (X and Y) patterns, which could be apparent prior to, at birth, in childhood, puberty or adulthood.*”⁴

11. In addition to the above definition, there are also various medical definitions of intersex persons. According to the Kenya National Commission on Human Rights, the ambiguity in sex may be anatomical (i.e. *bodily structure, e.g. vagina, penis, breasts*), hormonal (e.g. *estrogen, testosterone*), gonadal (i.e. *reproductive organs, e.g. ovaries, testes*) or chromosomal (i.e. *genetic makeup, e.g. XX, XY*).

12. In the past intersex persons have been referred to as ‘hermaphrodites’, though this term is no longer used nor accepted. The current medical term is ‘*differences in sex development*’

¹ Intersex Society of North America. Online: http://www.isna.org/faq/what_is_intersex/ (accessed on 1.10.2019)

² Fact Sheet, Intersex, online: https://unfe.org/system/unfe-65-Intersex_Factsheet_ENGLISH.pdf/ (accessed on 1.10.2019)

³ Centre for Human Rights, University of Pretoria, *Fact sheet on Intersex Persons Rights* <https://www.chr.up.ac.za/model-law-on-intersex-person> (accessed 2.10.2019)

⁴ OAG & DOJ, *Report of the Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons in Kenya*, 10th December, 2018 <http://www.klrc.go.ke/images/TASKFORCE-REPORT-on-INTERSEX-PERSONS-IN-KENYA.pdf> (accessed on 1.10.2019)

or ‘disorders of sex development’ (DSD). However, intersex people have noted that being intersex must not be seen as a medical problem, but a naturally occurring phenomenon⁵.

13. The Report by the *Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons*⁶ noted that in Kenya, the existence of intersex persons has been recognised for a long time even though sex is viewed as a taboo topic. This is evidence by names and descriptions among the indigenous communities across the country, which included: *Huntha/jinsia mbili* (Kiswahili, literally ‘intersex or two-sexed’); *Mali-nda* (Akamba, ‘something inside the body’); *nyot gath* (Luo, ‘deformed progeny or unnatural baby/ child’); *Kiugu/Ciugu* (Kikuyu, ‘someone not perfect, or of no value’), and; *chelosiot* (Kipsigis). Other indigenous references connotative of the intersex were: *Labeeb* (Somali), *Entapis* (Maasai), *Mundumuka mundumurume* (Embu), *Chemuren* (Keiyo), *Nturuntu* (Ameru)

14. The population statistics on intersex persons in Kenya were for the first time taken during the 2019 Population and Housing Census. Kenya is reported as the first African country to do so⁷. The 2019 Kenya Population and Housing Census identified 1,524 persons as intersex⁸.

1.3.1. Distinguishing between Intersex, sexual orientation and gender identity

15. The discrimination of intersex persons is linked to misconceptions on the nature of intersex persons. According to the United Nations Free & Equal campaign, being intersex relates to biological sex characteristics, and is distinct from a person's sexual orientation or gender identity.

16. Sexual orientation refers to a person’s physical, romantic and/or emotional attraction towards other people while ‘gender identity’ reflects a deeply felt and experienced sense of one’s own gender.

⁵ KNCHR, Intersex Persons In Kenya <https://www.knchr.org/Our-Work/Special-Interest-Groups/Intersex-Persons-in-Kenya> (accessed on 1.10.2019)

⁶ Supra note 4

⁷ BBC <https://www.bbc.com/news/world-africa-49127555> (accessed on 1.10.2019)

⁸ Kenya National Bureau of Statistics (KNBS) <https://www.knbs.or.ke/?p=5621> (accessed on 11.11.2019)

17. 'Transgender' (sometimes shortened to "trans") is an umbrella term used to describe people with a wide range of identities – including transsexual people, cross-dressers (sometimes referred to as "transvestites"), people who identify as third gender, and others whose appearance and characteristics are seen as gender atypical and whose sense of their own gender is different to the sex that they were assigned at birth⁹.

⁹ United National Free & Equal <https://www.unfe.org/definitions/> (accessed on 1.10.2019)

CHAPTER TWO
LEGAL AND POLICY FRAMEWORK ON THE RECOGNITION AND
PROTECTION OF INTERSEX PERSONS

2.0 Legal and Policy Framework

18. While the law has not comprehensively defined the word ‘intersex, there are legal provisions that touch on the rights of intersex persons and especially protection from discrimination. The Government and the courts have recognized the rights of intersex persons and there have been various efforts to this end.
19. This chapter highlights the constitutional provisions, the Persons Deprived of Liberty Act, 2014; the National Police Service, Standing Orders; Case Law and the findings of the Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons. It also includes a comparative analysis of the approaches taken by other jurisdictions.

2.1. Constitutional Provisions

20. Intersex persons are human beings entitled to all human rights and fundamental freedoms under the Constitution of Kenya as follows-
- (i) Article 10(2) (b) of the Constitution states that the national values and principles of governance include *‘human dignity, equity, social justice, inclusiveness, equality and protection of the marginalized.’*
 - (ii) Article 27 of the Constitution guarantees the right to equality and freedom from discrimination to every Kenyan citizen. In particular Article 27(4) and (5) of the Constitution prohibits the State or any other person from discriminating against any person on such grounds as sex, colour, age or social origin. Further, under Article 27(6) of the Constitution, the state is required through legislative and other measures to give full effect to the realization of the rights guaranteed under Article 27.
 - (iii) Article 28 of the Constitution stipulates that *“every person has inherent dignity and the right to have that dignity respected and protected.”*

- (iv) Article 53 of the Constitution states that every child has the right to be protected from harmful practices, and that a child's best interests are always the most important factor/consideration.

2.2. The Persons Deprived of Liberty Act , 2014

21. Under the Persons Deprived of Liberty Act, 2014, an 'intersex' persons has been defined as '*a person certified by a competent medical practitioner to have both male and female reproductive organs*'. Under section 10 (2) of the Act, an intersex person is given the right to decide the sex of the person by whom they should be searched. Section 12 (e) of the Act further states that intersex persons deprived of liberty should be held separate from other persons.

2.3. The National Police Service, Standing Orders

22. In 2017, *The National Police Service, Standing Orders*, Paragraph 15.4 provided for the protection of the rights of intersex persons upon arrest and detention. An intersex persons should be searched upon arrest by a person of their choice (fe/male) and detained separately in a police station.

2.4. Case Law

23. In the case of *Baby 'A' (Suing through the Mother E A) & another v Attorney General & 6 other [2013], eKLR*, the medical practitioners could not decide on what sex to indicate on the birth certificate of the baby after discovering that the child had both male and female reproductive organs. This resulted in an 'X' as a mark of the baby's sex which the baby's mother stated was a violation of the child's dignity. In order for a birth to be successfully registered the child's sex should be indicated on the birth certificate. The law does not provide for situations where there is an ambiguity of sex.
24. In the case of *R.M v Attorney General & 4 others [2010], eKLR* , RM was a convict detained at Kamiti Maximum Prison for males) and decided in 2010. The three judge bench ordered that the human dignity of an intersex person must be protected at all times and should not be subjected to torture, cruel, inhumane, degrading treatment or punishment. RM was awarded KES500,000/= in damages and the Kenya Prisons Service (KPS) was ordered to use technology during search. The Court also underscored the need

for empirical data on intersex persons in Kenya to inform relevant reforms to address challenges faced by intersex persons as a marginalised group.

2.5. Comparative Analysis

2.5.1. South Africa

25. In South Africa, the Promotion of Equality and Prevention of Unfair Discrimination Act of 2004, interprets the definition of ‘sex’ to include intersex persons, therefore, intersex persons are equally protected from discrimination on the basis of sex. The term intersex has also been defined as “*a congenital sexual differentiation which is atypical to whatever degree*¹⁰.”

26. Additionally, section 2 of the Alteration of Sex Description Act of 2003, intersex persons can alter their name and sex on birth certificates to suit preferred gender role.

2.5.2. Uganda

27. In Uganda, section 38 of the Registration of Persons Act of 2015, allows intersex minors to amend particulars on their birth certificates provided that sex has been altered through surgery. However, this provision allows particulars to be amended only by minors. The provision also sets surgery as a pre-condition to amend a birth certificate.

2.5.3. Australia

28. Intersex has also been defined in Australia’s Sex Discrimination Act 1984, through the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013. The amendment to subsection 4(1) defines intersex as the “*status of having physical, hormonal or genetic features that are neither wholly female nor wholly male or a combination of female and male or neither female nor male*¹¹.”

2.5.4. Malta

29. Malta was the first country to provide legislative human rights reforms for intersex persons, particularly protecting them from any sex assignment treatment and/or surgical intervention on the sex characteristics of minors. Article 14(1) of the Gender Identity,

¹⁰ Article 1 of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. Online: <http://www.justice.gov.za/legislation/acts/2000-004.pdf/> (accessed on 1.10.2019)

¹¹ Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act, 2013. Online: <https://www.legislation.gov.au/Details/C2013A00098/Download/> (accessed on 2.10.2019)

Gender Expression and Sex Characteristics, Act 2015 prohibits sex assignment treatment and/or surgical intervention on sex characteristics of a minor which can be deferred until the person to be treated can provide informed consent. Genital normalising surgeries as a pre-condition for amending birth certificates is therefore prohibited under the Act¹².

2.6. Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons

30. On 26th May 2017, the Hon. Attorney General, gazetted (No.4904) the *Intersex Taskforce on policy, legal, institutional and administration reforms regarding the protection and treatment of intersex persons in the Republic of Kenya* under the leadership of the Kenya Law Reform Commission (KLRC) and the Kenya National Commission on Human Rights (KNCHR) as the secretariat.

2.6.1. Intersex Persons Implementation Coordination Committee (IPICC)

31. On 2nd April 2019, the Hon. Attorney General operationalized the *Intersex Persons Implementation Coordination Committee (IPICC)* under the leadership and secretariat of the Kenya National Commission on Human Rights (KNCHR).

32. The Intersex Persons Implementation Coordination Committee was mandated to coordinate the implementation of the prioritized recommendations of the Intersex Taskforce Report, to assist in the formulation and dissemination (in appropriate languages) of the Intersex Taskforce Report, and to coordinate, build capacity and facilitate collaborations among various stakeholders and interest groups in both private and public institutions¹³.

2.6.2. Summary of Recommendations of the Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons

33. The Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons was constituted and gazetted by the Office of the Attorney-General (OAG) vide Gazette Notice No. 4904 on 26th May, 2017. The membership of the Taskforce is drawn from various institutions including Kenya Law Reform Commission (KLRC), Office of the Attorney General and the Department of Justice, Directorate of

¹² OAG & DOJ, *Report of the Taskforce on Policy, Legal, Institutional and Administrative Reforms Regarding Intersex Persons in Kenya*, 10th December, 2018 <http://www.klrc.go.ke/images/TASKFORCE-REPORT-on-INTERSEX-PERSONS-IN-KENYA.pdf> (accessed on 1.10.2019)

¹³ KNCHR <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1084/Press-Statement-by-Intersex-Persons-Implementation-Coordination-Committee-IPICC>

Immigration & Registration of Persons, National Gender and Equality Commission, Kenya National Commission on Human Rights (KNCHR) and the CRADLE.

34. In undertaking the assignment, the Taskforce undertook comprehensive and intensive research and stakeholder consultations. In addition, the Taskforce rolled-out a nationwide survey to complement desk review and stakeholder input, which informed the key proposals on development of policy, legal, institutional and administrative measures to address the plight of intersex persons and development of an implementation matrix.

35. In its report, the Taskforce observed that –

“On the context of Kenya’s situation, the Taskforce concludes that while the Constitution under Articles 2, 19, 27, 28, 29, 35, 47, 53 and 56 provides the foundation for recognising and protecting human rights and fundamental freedoms of intersex persons in Kenya by preserving their dignity and promotion of social justice and the realisation of their potential as human beings, a review of the current state of sectoral laws established serious legal, institutional and administrative gaps that fail to take cognisance of the existence, needs and challenges of intersex persons in Kenya. The current statutory laws, administrative actions and institutional arrangements within the health, education, employment, civil registration, immigration and justice sectors are fashioned along a binary concept of male and female.”

2.6.2.1. Proposed Legislative Amendments on Recognition

36. The Task Force made the following legislative amendments regarding the recognition intersex persons before the law-

No.	Legislation/ Regulations	Proposed Amendment
1.	Interpretation and General Provisions Act, Cap 2	Introduce definition of Intersex Persons

2.	<ul style="list-style-type: none"> • Persons Deprived of Liberty Act [2014] • Prison Rules, 1963 • Criminal Procedure Code, Cap 75 • Borstal Institutions Act, Cap 92 • Borstal Institutions Rules, 1963 • Probation of Offenders Act, Cap 64 • Children’s Act, 2001 	<ul style="list-style-type: none"> • Define an intersex status and introduction of substantive provisions on equal treatment, respect and protection of dignity within the criminal justice sector. • Facilitate recognition of intersex persons before the law through the introduction of an intersex (I) marker.
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2.6.2.2. Proposed Legislative Amendments on Documentation

37. The Task Force made the following legislative amendments regarding the documentation of intersex persons –

No.	Legislation/ Regulations	Proposed Amendment
1.	<ul style="list-style-type: none"> • Births and Deaths Registration Act Cap. 149 • Registration of Persons Act Cap. 107 • Interpretation of General Provisions Act Cap. 2 • Kenya Citizenship and Immigration Act, Cap 172 • The Children Act, 2001. 	Amendment to ensure responsible agencies to effect expeditious provision of birth certificates, identification documents, passports and other official personal documentation that include provisions for the intersex (I) marker

2.6.2.3. Recommendations on Access to Health and Awareness

38. The Task Force made the following legislative amendments regarding the health and awareness –

- (i) **Specialized programmes** - Ministry of Health in consultation with relevant agencies to formulate specialised programmes to provide for intersex persons’ care and protection in health facilities in order to facilitate their access to the highest attainable standard of health.
- (ii) **Informed consent before surgical and hormonal intervention-** Surgical and hormonal interventions for children in relation to their intersex status should only be carried out in case of medical emergency based on informed consent.
- (iii) **Harmonized and comprehensive treatment guidelines including mental health support-** Ministry of Health in consultation with Medical Practitioners and Dentists Board to formulate harmonised and comprehensive treatment guidelines

focusing on a child and human rights-based approach to medical care and protection of intersex children. Healthcare must focus beyond physical wellbeing to encompass the mental health aspect. In this regard, provision should be made for psychosocial support to both the intersex child and their family.

- (iv) **Fund to cater for all medical-related interventions** -State to establish a fund to cater for all medical-related interventions for intersex persons due to the high cost implications. The State to give a free/subsidised medical insurance health cover under the NHIF or any other scheme.
- (v) **Awareness campaign**- The State to mount awareness campaign targeting the general public, education providers, State institutions dealing with registration and documentation of persons, and health providers on the plight of intersex persons in Kenya and the need for their appropriate care and treatment.
- (vi) **Data Collection**- Collection of accurate and verifiable statistics on intersex persons.
- (vii) **Enhance social protection mechanisms**- Development and review of social protection mechanisms to ensure realisation of social, economic and legal protections for intersex persons and safeguard against violations on the basis of their 'I' marker.
- (viii) **Relevant training in schools and tertiary institutions regarding intersex status**- The curricula to be revised accordingly to include intersex in the relevant subjects of instruction throughout the formal education system, including science, biology, sexual and reproductive health and anatomy, among others

CHAPTER THREE

PUBLIC PARTICIPATION

3.0 Introduction

39. The Committee, pursuant to Article 118 of the Constitution and Standing Order 134 (1), invited submissions from members of the public on the Bill via an advertisement on the Daily Nation Newspaper and Standard Newspapers conducted a public hearing on 16th October, 2019 at the Mini Chamber, County Hall, Parliament Buildings at 10am. The Committee received oral and written submissions from –

- (i) Ministry of Interior and Coordination of National Government;
- (ii) Kenya National Commission on Human Rights (KNCHR);
- (iii) Ministry of Health;
- (iv) Ministry of Education, Science and Technology;
- (v) The CRADLE;
- (vi) Intersex Persons Society of Kenya (IPSK); and
- (vii) Transgender Education and Advocacy (TEA)

3.1 Submissions from Stakeholders

40. The Committee received oral and written submission from the public and stakeholders as follows-

3.1.1. Presentations by members of the Intersex Persons Society of Kenya (IPSK)

41. The Intersex Persons Society of Kenya (IPSK) is a non-governmental organization that provides support to the intersex persons in Kenya. The Intersex Persons Society of Kenya served as a member of the defunct Taskforce on Policy, Legal, Institutional and Administrative Reforms regarding Intersex persons in Kenya as well as the current Intersex Persons Implementation Coordination Committee (IPICC).

3.1.1.1. Submissions by Mr. Ryan Muiruri – Director, Intersex Persons Society of Kenya (IPSK)

42. Mr. Ryan Muiruri – Director, Intersex Persons Society of Kenya (IPSK) submitted to the Committee on the challenges facing intersex persons as follows-

- (i) **Cost of Medical Treatment-** Intersex persons face a lot of discrimination from all quarters and the medical treatment that they needed to adhere to a certain sex was very costly. An intersex person has to undergo tests that may amount to over Kshs. 200,000 and the surgery itself costs over Kshs. 100,000. He mentioned challenges such as lack of qualified medical personnel in Kenya and a long tedious process as some of the medical challenges that intersex persons face.
- (ii) **Simplify and devolve medical care for Intersex Persons-** Medical processes should be simplified to allow intersex people to get their documentation process and then get own with the medical processes at their own convenience. Devolving the process to the health facilities in the counties would also help reduce the back log as it is only done at the Kenyatta Hospital.
- (iii) **Difficulty in obtaining Government Identification Documents and Inclusion of third sex identification code-** A third code should be added in the birth certificate and other registration documents so that intersex persons are identified at birth. Intersex persons face challenges in getting passports, birth certificates and identity cards. Those who have Identification Documents do not match with their physical attributes.
- (iv) **Stigma in the education environment for intersex children-** Educational institutions are not conducive for intersex children due to stigma from the educators and fellow learners.
- (v) **Intersex infanticide-** Intersex infanticide is a reality and many mothers have confessed that they were forced to kill their own intersex children to protect their marriage and dignity. If one survives not to be killed you will be treated like an outcast within the family and in the society. Many intersex parents do not take their children to school some feel there are no need to invest in ‘cursed and dying’ children while others face challenges in obtaining birth certificates to register their children in school. Intersex children are also often bullied in school causing them to drop out.
- (vi) **Lack of access to financial services-** At the age of eighteen, Intersex Persons are forced to look for a third party to help in getting the national identification documents (IDs) which forces them to use names and sex which we were register at birth that do not reflect their physical attributes. Most intersex persons who have identification documents cannot use them in simple things such as enrolling in higher education, *M-PESA*, opening bank accounts or accessing prominent

buildings because their physical attributes do not match with the document. This forces most intersex to live like refugees or asylum seekers in their own country.

- (vii) **Lack of awareness by the public-** Lack of awareness by employers on intersex persons forces intersex persons to miss out on employment opportunities which contributes to the poverty.

3.1.1.2. Submissions by Ms. Kwamboka Kibiagendi- Jinsiangu

43. Ms. Kwamboka Kibiagendi submitted that intersex persons face grave challenges including-

- (i) **Lack of awareness** among the general public about who intersex persons are and the challenges they face.
- (ii) **Lack of security** for the intersex and lack of basic amenities such as toilets. There is also no provision for intersex persons in other social facilities such as schools and prisons.
- (iii) **Lack of employment** generally due to lack of awareness of intersex persons. This is compounded by the mismatch in identification documents and physical attributes where in some cases, intersex persons are accused of impersonation.
- (iv) **Lack of access to specialized health care** for intersex persons. In this regard, health services should be devolved so that the intersex can access services at the county levels.
- (v) **Lack of access to education** because of lack of proper documentation like birth certificates and stigmatization of intersex children mainly due to lack of awareness.
- (vi) **Inability to access financial services** such as *MPESA* or even opening a bank account due to the challenges of Identification Documents and accusations of impersonation.

3.1.1.3. Submissions by Co-founder of the Intersex Persons Society of Kenya (IPSK) and a Parent of an Intersex Child

44. One of the co-founders of the Intersex Society of Kenya and a parent of an intersex child submitted to the Committee his experience of having an intersex child as follows-

(a) Intersex Variation

- (i) That his son was born with an intersex variation and is now nine (9) years old. Initially he was observed to have undescended testis and the parents thought that all he needed was a simple operation but it turned that he had gonads and a biopsy

was done. However, after the biopsy the condition became even complicated because the test indicated that he had an *ovarytestis*; that is a conjoined ovary and testis on one side and an ovary with a hanging fallopian tube on the other side.

- (ii) That this is an intersex variation which has an ambiguous genitalia and medically known as *Penoscrotal Hypospadias*. This means also that the urine way is not at the right place but is at the bent of the penis. Since the Republic of Kenya has no *Karyotyping* machine, the further test samples were sent to South Africa which was very expensive. This additional information revealed that his son had *XX46 Chromosomes* like a girl, and with no uterus or vagina.
- (iii) That three (3) medical operations at the Kenyatta national Hospital (KNH) left him with leaking urine making his medical health situation even more complicated that our in country doctors did not know what to do next. This intersex variation was now finally established as a mixed *Gonadol Disgenesis* that can cause cancer or kidney failure.

(b) The Parents or Guardians Dilemma

- (iv) That the culture and societal pressure recommended that he should kill his child and even advised him to divorce his wife Irene since she had brought a curse into this world. As Christian, he completely objected to this and vowed to protect his son by all means.
- (v) The medical tests resulted to his son being referred to Boston Children Hospital in USA as the hospital that can handle this complex case. The medical and related costs (transport and accommodation) are completely prohibitive because it requires a total of Ksh 10 million inclusive of traveling and accommodation.
- (vi) That this entire process has taken him over four (4) years being at Kenyatta National Hospital and visiting other big hospitals for specialized doctors who could handle or advise on this intersex variation. As a family they have spent over Ksh 4 million which has impacted their economic livelihood and health. He stated that he is a beggar who lives on handouts and the goodwill of people most of the time. He has been auctioned by several financial institutions and all his businesses have come to a standstill.
- (vii) That his wife has not been spared. She has been affected to a level that she cannot handle the stigma. She currently has hypertension and is no longer able to

do her duties well. She now hawks milk to put food on the table. She has been evicted from our house due to lack of rent payment.

- (viii) That his child has moved to three (3) different schools because of being ridiculed, bullied by other children and teachers, and due to lack of school fees. He further stated that he was happy that his child was currently hosted in a school that appreciates his intersex variations and he no longer struggles with his education and personal security and dignity. He is a very bright child and is now concentrating in the boarding school. He wants to be a pilot when he grows up.
- (ix) That he has been fundraising for the last three (3) years through the public, company's corporate social responsibility, National Health Insurance Fund (NHIF), Ministry of Health and media. He only managed to raise Ksh 1 million through a NHIF guarantee.
- (x) That he become desperate and appealed to Her Excellency the First Lady through the Beyond Zero Organization where she wrote a letter to the Cabinet Secretary, , Ministry Health, Sicily Kariuki to assist. However, to date nothing has materialized.

(c) Prayers to the Senate

- (xi) That he was happy to be able to share publically with policy makers and legislators for the first time how sex characteristics identification and registration for intersex children is not only stigmatizing but expensive and a long process that impact negatively on the family.
- (xii) That not all intersex variations require medical interventions. Some intersex bodies change naturally to a different sex from the sex they were recorded at birth. So intersex persons may require medical interventions to assist them in the sex marker change from intersex to male or female, or from male or female to intersex. The change of a sex marker also inevitably means that an intersex person may consider changing their name too. Intersex persons already do this administratively to enable them fit more easily in society.
- (xiii) That he was very concerned that the Ministry of Health does not have a special budget allocation to support intersex persons in these tests nor on any necessary health interventions. This State financial support is necessary due to the costs involved and this may limit the number of intersex persons able to access medical

reports or letters to support their registration process. Intersex persons need affirmative action and equity.

- (xiv) That although he was not a doctor but through his own experience and also through the experiences of other parents, he was concerned about the timing of the medical interventions on children. These 'corrective' surgeries or hormonal treatments are usually inappropriate and too early. There is no informed consent because the tests are not complete and the children are young and do not participate in the decision making process. This is a lifelong intervention on the child's body.
- (xv) That each intersex persons and intersex variation is distinct and peculiar. Medical protocols from conception, birth, youth, adulthood and old age should be developed to assist and support the intersex community accordingly. For example, the appropriate timing of *Gonadectomy* hinges on an understanding about the different intersex variations. The chances of *neoplasia* and *virilisation* in the *dysgenetic* or streak gonads found in some conditions at puberty are estimated to be at 30%. It has been shown that tumors can arise as early as six months from birth. Further, the separation of the ovarian and testicular tissue is technically difficult and should be undertaken, if possible early life.
- (xvi) That further, a multidisciplinary medical-social team must be engaged at all stages of the intersex child's development and more so at the crucial stages or points of decisions to ensure the appropriate and best case management of the intersex persons in both life and medicine. This multidisciplinary teams issues of concern and in order of priority should include:
 - (a) Health
 - (b) Social
 - (c) Reproduction and
 - (d) Sex 'Change'.
- (xvii) That by passing the Bill, the Senate will ensure that intersex children are no longer discriminated due to the limitations in the law and medically. That this move will reduce the infanticide, suicide, live life of 'nomadism' and school drop out of intersex children and adults in Kenya and give intersex persons a chance to achieve their full wellbeing, full potential and make their dreams valid.

3.1.2. Presentation by Ms. Veronica Mwangi – Kenya National Commission on Human Rights

45. The Kenya National Commission on Human Rights (“KNCHR” or “National Commission”) is an independent National Human Rights Institution established under Article 59 of the Constitution with a broad mandate to promote a culture of respect of human rights in the Republic of Kenya.
46. KNCHR has in the past advocated for the rights of intersex persons through judicial interventions, undertaking research on the plight of intersex and subsequently appointed to provide secretariat and as a member of the Taskforce on Policy, Legal, Institutional and Administrative Reforms regarding intersex persons in Kenya. Recently the Commission was at the forefront in the advocacy with the Kenya National Bureau of Statistics for inclusion of intersex persons as a third sex marker in the just concluded Kenya Population and Housing census.
47. Currently the Commission is leading the Intersex Persons Implementation Coordination Committee (IPICC) gazetted through *Gazette Notice No. 7264 of 2019* to assist the Government of Kenya implement the taskforce recommendations.
48. The Kenya National Commission on Human Rights (KNCHR) represented by Ms. Mwangi made written and oral presentations as follows –
- (i) **Intersex as a human rights issue-** Intersex is a key human rights issue and the Commission has been at the forefront in advocating for the rights of this vulnerable group. Historically, intersex persons continue to face a myriad of challenges and human rights violations as a result of non-responsive laws which adopt a binary system of either male or female. In addition, the societal expectations perpetuate stigma against intersex persons since they cannot fit as being either male or female.
 - (ii) **Challenges faced by intersex persons-** Some of the key challenges faced by intersex children and adults include-
 - (a) threat to life,
 - (b) loss of life due to suicide and infanticide,
 - (c) torture cruel and inhuman treatment,

- (d) discrimination,
- (e) lack of access to adequate medical care, education, employment among other violations that impede on their realization of their human rights.

3.1.3. Submissions by Transgender, Education and Advocacy (TEA)

49. Ms. Audrey Mbugua, the Chairperson of Transgender, Education and Advocacy submitted as follows -

- (i) **Definition of sex to denote gender identities rather than sex organs-** That though the transgender community in Kenya supports legislative and administrative reforms that safeguard and promote the human rights of persons with intersex conditions, it is concerned that some of the proposed initiatives will be deleterious to the well-being of transgender people. This is because that the first time Kenya will have a legal definition of sex but the proposed locks out transgender people from legal recognition. Additionally, there is need to ensure sex markers denote gender identities not sex organs.
- (ii) **Overhaul of the law-** Proposed a comprehensive overhaul of the Registration of Person Act and the Births and Deaths Registration Act. Listed limitations of the proposed amendments as -
 - (a) It only targets people who are 18 years and above.
 - (b) It is silent on changes of names and sex markers in birth certificates.
 - (c) It does not eliminate the administrative bureaucracies associated with changes of names which is carried out using a deed poll and gazette notice.
 - (d) This amendment will also imperil changes of sex markers from transgender Kenyans since the implication of these amendments is anyone who is not intersex cannot amend the sex marker in national identity card.
- (iii) She concluded by making the following recommendations –
 - (a) Make comprehensive amendments to both the Registration of Persons Act and Birth and Deaths Registration Act on matters of sex reassignment and name changes for Kenyans
 - (b) Move away from the use of individuals' genitalia and other physical characteristics to determine their sex. Personal autonomy and an individual's gender identity should be respected, recognised and appreciated.

- (c) Have laws that do not push people to undertake medical procedures for their gender/sex to be legally recognized

3.1.4. Submissions by the CRADLE– The Children’s Foundation

4.0 The CRADLE – The Children’s Foundation is a non-profit making and non-governmental organization committed to the protection, promotion and enhancement of the rights of the child through court representation, advocacy and law reform.

50. The CRADLE submitted a written memoranda as follows-

- (i) **Definition of Intersex persons-** An intersex person is an individual who, because of a genetic condition, is born with ambiguous sexuality and thus cannot be differentiated as being male or female.¹⁴ The term also refers to a person who has genetic, hormonal and physical features that are neither exclusively male or nor exclusively female.¹⁵
- (ii) **Challenges faces by Intersex children-** Intersex persons , and especially children, face significant challenges in attaining legal recognition of their gender identity including-
- (a) **Legislative gaps-** In Kenya, legislative gaps exist in the areas of equality and non-discrimination, documentation and legal status, as well as appropriate and affirming health care for intersex individuals.
- (b) **Lack of public discussion/ awareness-** The absence of public discussion and acknowledgement of intersexuality has led to a lack of legal recognition for intersexual as a distinct vulnerable group in need of protection by the law. The treatment of intersex persons by the society raises important human rights issues because such persons have in the past been seriously stigmatized and have been subjected to a phenomenon referred to as ‘intersex phobia’.¹⁶
- (c) **Violation of human rights of intersex persons-** In Kenya, intersex persons face violence and discrimination when accessing public services,

¹⁴ Shuvo Ghosh, Gender Identity: Definitions, Development of Gender Identity - Usual Patterns, Development of Gender Identity - Unusual Patterns Available at: <https://emedicine.medscape.com/article/917990-overview> Accessed on: October 18, 2019

¹⁵ *Ibid*

¹⁶ Mayo Clinic Staff, Ambiguous genitalia, Available at: <https://www.mayoclinic.org/diseases-conditions/ambiguous-genitalia/symptoms-causes/syc-20369273> Accessed on: October 18, 2019

violations that sometimes arise from the pathologization of sex characteristics, gender identities, and forms of gender expression that do not conform to sex/gender binaries prevalent in society.

- (d) **Lack of legal identification-** Identity documentation in Kenyan society forms an important element of public life and key determinant of access. Persons without valid identification may face arbitrary arrest and detention by law enforcement; withholding of services such as healthcare, banking, money transfer services, education, employment, and travel. Intersex persons wishing to have their gender marker amended in identity documents or other documents conferring legal status face hardship arising from lack of legislation to govern this process. Intersex persons in Kenya also face challenges when seeking to legally change their name.
- (e) **Absence of statistics and data on intersex persons-** Statistics and data relating to intersexual children has not been collected and documented and as such it is impossible for these children to gain legal recognition without the said data being in place. Intersexual children are therefore marginalized and are vulnerable and also lack the appropriate legal protection mechanisms as guaranteed under Article 27 of the Constitution. For these reasons, they remain victims of inequality as they are not included in any known State programs and as such are placed in the position of second hand citizens.
- (f) **Absence of an Intersex Marker in law under the Births and Deaths Registration Act -** The Births and Deaths Registration Act is a key legislation that provides for the issuance of birth certificates. It fails to adequately provide for intersex persons as it does not provide for the intersex gender marker in government issued documentation. The provision denies intersex children the right to legal recognition and violates Article 7 of the Convention on the Rights of the Child which provides that the child has a right to be registered immediately after birth and has the right to a name. Similarly, Article 5 of the Universal Declaration on Human Rights states that everyone has the right to recognition as a person before the law.

In 2016, the African Commission on Human and Peoples' Rights joined other human rights institutions in condemning human rights violations on intersex people, including in medical settings.¹⁷ The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has underscored the illegality of these procedures under international human rights law.¹⁸

- (iii) **Absence of an Intersex Marker in law under the the Registration of Persons Act** - Under Section 5 (1) of the Registration of Persons Act (Cap 149 Laws of Kenya), the Principal Registrar is mandated to maintain a register of all persons and to record the particulars in respect of such persons which include the sex of the person. This makes it problematic for intersex children to be registered as the form only provides for male and female sex markers and there is no mark for intersex children. The obtainment of a birth certificate is of great importance in all spheres of life and development of a child because it is the ticket to admission in school, issuance of a passport, a national identity card, employment, etc. and without that document and or legal recognition, a child cannot realize or enjoy the rights.
- (iv) **Discrimination of children under the Registration of Persons Act** -The Registration of Persons Act 2012 offends the child's rights to legal recognition, erodes her dignity and violates her right not to be subjected to inhuman and degrading treatment. Intersex persons are human beings entitled to all human rights and fundamental freedoms as stated in the Bill of Rights.
- (v) **Violation of the constitutional rights of intersex persons**- The lack of access to proper identification documents violates the rights of intersex persons as follows
 - (a) The Constitution of Kenya [2010] states in **Article 10** that the national values and principles of governance include inclusiveness, equality and protection of the marginalized. The purpose of the Bill of Rights in the Constitution is to *"preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings"*.

¹⁷ Kenya National Commission on Human Rights, Equal in Dignity and Rights Promoting The Rights of Intersex , Available on: https://www.knchr.org/Portals/0/GroupRightsReports/Equal%20In%20Dignity%20and%20Rights_Promoting%20The%20Rights%20Of%20Intersex%20Persons%20In%20Kenya.pdf?ver=2018-06-06-161118-323 Accessed on: October 18, 2019

¹⁸ *ibid*

- (b) By dint of **Article 12(1)** of the Constitution every Kenyan is entitled to the rights and privileges of citizenship, a Kenyan passport and any document of registration or identification issued by the State to its citizens. Article 20 of the Constitution provides inter alia that the Bill of Rights shall be enjoyed by every person to the greatest extent consistent with the nature of the right or fundamental freedom.
- (c) **Article 27** of the Constitution provides safeguards and protects against discrimination of persons based on grounds which include sex. As a result, everyone ought to be given an opportunity to participate in society on an equal basis with other persons, for example to be issued a birth certificate without discrimination.
- (d) **Article 28** of the Constitution states that “*every person has inherent dignity and the right to have that dignity respected and protected.*”
- (e) **Article 53** of the Constitution stipulates that every child has the right to be registered and protected from harmful practices, and that a child’s best interests is the most important consideration.
- (vi) **Right of citizenship under the Children’s Act-** The right of citizenship and nationality is enshrined in Section 11 of the Children Act which provides that every child has a right to a name and nationality from birth.
- (vii) **Case Law by CRADLE-** In the case of *Baby ‘A’ (Suing through her mother, E.A) The Cradle- The Children Foundation and Attorney General, Kenyatta National Hospital, The registration of Births and Deaths and Kenya National Commission of Human Rights, National Gender and Equality Commission, Kenya Christian Professional Forum LTD and Kenya Human Rights Commission.* The High Court made positive rulings which have had a positive bearing on the rights of intersex persons. The court ruled that the petitioner, an infant who had been found to have both male and female genitalia, had suffered from lack of legal recognition and discrimination. The judge ruled that the petitioner was an intersex person, thus recognizing that such a category of individuals existed, contrary to the finding in the *RM case*.¹⁹
- (viii) **Provision for change of identity documents-** While The CRADLE believes that intersex persons should be able to change their legal name and gender on all of

¹⁹ RM v the Hon. Attorney General [2010], Petition 705 of 2007 (RM Case)

their identity documents upon such age as they are mature enough to pinpoint which gender role they wish to undertake. One must take into consideration the delicate intricacies in the automatic assignment of the intersex gender to a child. For example, a child may have difficulty in obtaining admission in a single sex school on account of their intersex gender. A protection measure for such children would therefore be to allow them to be assigned the traditional male or female sex marker in identification documents of which may be altered legally by the child at such a time as they deem fit.

Of note, is the Australian Passport Office which has a policy for sex and gender diverse passport applicants that *“provides flexibility as it makes it clear that birth or citizenship certificates do not need to be amended for sex and gender diverse applicants to be issued a passport in their preferred gender. A letter from a medical practitioner certifying that ... if they are intersex and do not identify with the sex assigned to them at birth is acceptable.”*²⁰

- (ix) **Medical procedures should have the best interests of the child as the guiding principle-** In the creation of rules and regulations that guide gender assignment, medical procedures should have the best interests of the child as the guiding principle. The CRADLE’s has taken note that in several cases, parents and doctors make decisions on behalf of intersex children as to what sex or gender they would want the child to take up or without taking into account the interests of such children. From birth, intersex persons in Kenya are medicalized and pathologized by parents and legal guardians, the medical community, and the state with a bid to correct or normalize their sex to fit the normative (a belief that one’s sex assigned at birth should correspond to one’s gender identity) norms.
- (x) **Consent in corrective surgery-**The CRADLE further submitted that corrective surgery to “correct” the genitals of an intersex child should not be allowed without the child’s consent and such a decision should be left to the child when he/she reaches the age where he/she has the capacity to make that decision. No one, including a child, should be forced to undergo medical procedures including sex

²⁰ Australian Government (2013), Guidelines on the recognition of sex and gender Available at: www.passports.gov.au/web/sexgenderapplicants.aspx Accessed on: October 18, 2019

reassignment surgery, sterilization or hormonal therapy as a requirement for legal recognition of their gender identity.

The CRADLE submitted that such surgeries ought to be done only when the child is of age so that he/she can make an informed decision. The child's right to physical integrity and self-determination should not be violated as the extent of the level of intrusion of the surgeries being performed by Hospitals are not known. This is akin to experimenting on a human body in violation of Article 27 of the Constitution.

- (xi) **No necessity of corrective surgery for intersex children** - That corrective surgery for intersex children is not necessary unless there is a therapeutic need to conduct the surgery and that forced genital normalization or Intersex Genital Mutilation (IGM), involuntary sterilization, unethical experimentation, medical display, reparative therapies or conversion therapies often lead to irreversible changes to the body and interferes with a child's right to family and reproductive health rights generally.
- (xii) **Sex and gender identity should not be conflated**- It is submitted that it is inappropriate to define "intersex" as an intermediate gender identity and that conflating intersex with gender diversity denies legitimacy to intersex people particularly to those whose visual appearance is not androgynous or who identify their gender as female, male or both.

The apparent sex of an intersex child is ordinarily registered at birth which is a decision based more on presumption pending actual medical examination and determination that would reveal the dominant biological sex of the child and that in such instances the 'male' or 'female' marks in the birth certificate merely indicate gender as opposed to the actual sex of the child. That later in life, when the intersex realizes that the gender assigned at birth is not the gender role they would wish to adopt and it may be too late to rectify the surgery. This also has implications on the ability of intersex persons to reproduce.

51. Based on the above findings and analysis, we make the following recommendations to the Standing Committee:

- (a) **Child's right to self-determination-** To recognize the child's right to self-determination in gender recognition, through expeditious access to official documents.
- (b) **Train registration personnel** to respect the human rights of intersex people, including the right to personal autonomy, and the right to privacy.
- (c) **Depathologize the acquisition and amendment legal status of intersex -** Further, to depathologize the acquisition and amendment legal status of intersex persons by removing the requirement for a diagnosis of gender dysphoria and or the requirement of involuntary sex assignment in order to legally change one's names and gender marker.
- (d) **Right to personal autonomy and the best interests of the child -** Establish legislation for treating intersex patients based on the patient's right to personal autonomy and the best interests of the child and on medical best practices.²¹
- (e) **Amnesty for forgery of documents-** Intersex persons have on occasion falsified legal and educational documents to avoid embarrassment after body changes reveal one sex to be more predominant. It is recommended that such persons do not face legal action owing to their unique circumstances and gap in the law.

4.1. Submissions on Specific Clauses of the Bill

52. The Committee further received submissions on specific clauses of the Bill as follows-

4.1.1. Clause 2 of the Bill- Amend section 2 of the Registration of Persons Act by inserting the definition of the words 'intersex' and 'sex'

53. The Kenya National Commission on Human Rights (KNCHR), Intersex Persons Society of Kenya (IPSK) and the Intersex Persons Implementation and Coordination Committee (IPICC) proposed to amend Clause 2 by inserting a new definition of the word 'intersex' as follows- "*Intersex*" means a person who is conceived and born with a biological sex characteristic that cannot be exclusively categorised in the common binary of female or male due to their inherent and mixed anatomical, hormonal, gonadal (ovaries and testes) or chromosomal (X and Y) patterns, which could be apparent prior to, at birth, in childhood, puberty or adulthood.

²¹ End violence and harmful medical practices on intersex children and adults, UN and regional experts urge (Office of the High Commissioner for Human Rights), 26 October 2017, <https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739> (accessed June 25, 2017)

54. **Rationale:** This is a comprehensive definition that was proposed by the Intersex taskforce. It also reaffirms the inherent rights and dignity of Intersex persons at all stages of life.
55. The Transgender Education and Advocacy (TEA) proposed to replace 'sex' with 'gender' which is defined under the National Gender and Equality Commission Act, 2011. In the alternative, retain 'sex', let 'sex' be determined by either: "*An individual's gender identity which is an individual's self-awareness of their gender which may not correspond with the one typically associated with the sex assigned at birth*" or "the physical and physiological characteristics associated with maleness, femaleness or intersex"
56. **Rationale:** Identity cards should possess information that can be used to confirm their identity. It is unrealistic to have sex markers that are based on people's genitalia as means of identifying people. People's genitalia are also private affairs and should not be placed in identity and travel documents are presented in public settings. Gender which is manifested by an individual's physical appearance or presentation and social behavior is therefore a better attribute of identifying people.
57. The Transgender Education and Advocacy (TEA) further proposed to replace the definition of the word 'sex' with - *Sex markers shall take the form of either: Male, Female, Intersex, Transgender and Others.*
58. **Rationale:** To expand sex markers to encompass Kenya's gender diversity.
59. The CRADLE proposed that the Bill be amended by the Insertion of Clause 2 (b) following immediately after section 2 to read '*Where the applicant wishes to change its sex in legal identification documents, the person shall be required to produce a report prepared by a medical practitioner corroborating that the applicant is intersexed and has lived stably for an unbroken period of at least two years in the gender role corresponding to the sex description under which he or she wishes to be registered.*'
60. **Rationale:** It must not be that persons are permitted to change their sex opportunistically or whimsically. Instead, intersex persons should demonstrate that indeed they wish to

subscribe to one particular gender role and it is in their best interest to be permitted to register that sex and to live in accordance with that subscription. A two-year time frame would suffice to ascertain that the change in sex is not whimsical but necessary for the mental health of the intersex person.

61. The CRADLE proposed that the Bill is amended by the Insertion of Clause 2(c) immediately after the proposed Clause 2(b) to read that *'A person who has been proved to be an intersex person shall not change their sex more than once unless in the opinion of a trained medical practitioner or psychologist, new circumstances have arisen which force the intersex person to seek reassignment surgery.'*

62. **Rationale:** Often after undergoing sex assignment procedures, intersex persons do not cope well in their new gender roles e.g. where gender reassignment conducted when the intersex person was young, surgical errors, failure in hormonal treatment therapy, etc. An intersex person should be permitted to register their sex more than once particularly after undergoing surgery or at the onset of puberty, if they can show good cause as to why such change in gender reassignment is necessary.

63. The CRADLE proposed that the Bill be amended by the Insertion of Clause 2(d) immediately after the proposed Clause 2(c) to read that *'a parent whose child is intersex may choose to register their child as male, female or intersex and change the sex marking at later years of the child with the child's consent where one sex is more predominant.'*

64. **Rationale:** Administrative laws, such as birth registration, and legal gender and administrative processes can put pressure on parents and medical professionals to choose and assign the sex of an intersex child. The sex assigned at birth becomes a legal and social fact and can represent the identity of a person.²² The obligation to assign a baby's sex puts pressure on parents and medical professionals in relation to an intersex baby, particularly as parents are often not adequately or not at all informed about their intersex baby's status and the process of treatment.²³

²² US Aid, Intersex Research Study Albania, Bosnia and Herzegovina The Former Yugoslav Republic of Macedonia and Serbia 2017 Available at: <https://www.eurasia.undp.org/content/dam/rbec/docs/Intersex%20Research%20Study%20UNDP%202017.pdf>
Accessed on: October 18, 2019

²³ *Ibid*

65. The CRADLE proposed that in addition to the recognition of the Intersex as a third gender parents whose children have both male and female attributes, may choose to register their children as either male, female or intersex provided that gender reconstruction surgery is not performed on the child prior to such an age where the child is deemed to be mature to undergo such surgery. This would reduce the possibility of stigmatization that may be associated with the child's registration as an intersex person. The provision would also protect the child's right to privacy as the intersex marker may involuntarily bring about disclosure of their intersex status.

4.1.2. Clause 3 of the Bill- Amend the Registration of Persons Act by inserting a new section 9B to provide for change of particulars of an intersex person

66. The Kenya National Commission on Human Rights (KNCHR) proposed that section 9B(1) of the Registration of Persons Act be deleted and substituted with-

9B (1) An Intersex person who seeks to change their particulars shall:

- i) obtain a medical report certified by a competent medical practitioner duly registered as a member of the Kenya Medical Practitioners Board;*
- ii) upon receipt of the medical report under subsection (i) attend before a registration officer within 12 months for the purposes of changing the particulars of their name and sex in the register.*

67. **Rationale:** Medical procedure/intervention as proposed in the Bill elucidates that all intersex persons undergo medical procedures. That proposal will deny most intersex persons the right to recognition through change of their particulars with ease. The requirement of the intersex person to undergo medical procedure that makes them fully male or female, fails to take into consideration the current punitive medical costs and examinations and the medical practice.

68. Further, there is cognizance of the fact that there are over forty-six (46) variations of the intersex condition and medical procedures are not deemed necessary in all intersex cases as it is highly dependent on the intersex variation that the person possesses and the medical risks that present themselves. The extension of time will be crucial to allow an Intersex person make the decision but also get the psychosocial support needed to help them in this process.

69. Intersex Persons Implementation and Coordination Committee (IPICC) proposed that section 9B(1) of the Registration of Persons Act be deleted and substituted with-

Delete sub-clause 9B(1), and substitute therefor the following –

9B (1) An Intersex person who seeks to register or change their particulars shall:

- i) obtain a medical report certified by a competent medical officer of health;*
- ii) Upon receipt of the medical report under subsection (i) attend before a registration officer within 2 years for the purposes of registering or changing the particulars of their name and sex in the register.*

70. **Rationale:** To take into account those registering for the first time and those who wish to change their particulars. Not all intersex persons require medical interventions. Further, medical interventions (if at all) vary from one intersex to another at different stages of their sex development. In Kenya, medical interventions on intersex persons are undertaken when they are minors, and in the absence of adequate medical tests and prior informed consent from parents.

71. Intersex Persons Implementation and Coordination Committee (IPICC) recommends that such medical interventions be done at the intersex is an adult, adequate medical tests are done and there is a multi-disciplinary medical and non-medical team and the child is part of this long-term intervention decision. Medical intervention should not be linked to registration as it will restrict the right to recognition and registration. Medical procedures are expensive and some are not available locally. A medical report is conclusive without the medical intervention to determine that the adult is an intersex who is predominately male or female or intersex.

72. The Registration of Births and Deaths, Cap. 149, Section 14 provides **2 years period for a change of name of the child**. This is a reasonable period given the fact that this is a serious and life changing decision that the intersex person will make and live with for the rest of their life.

73. In Cap. 149, Section 2 on interpretations of '**prescribed particulars**' includes both name and sex. This means that both these particulars are important and almost go together. This is true for intersex persons.

Intersex persons usually, to fit in with their changed physical characteristics **change their names**. Therefore, it will be important for them to change both their names and sex at the same time i.e. from Ruth to Rayan or Josephine to Joseph, Mary to James, among others

74. The CRADLE proposed that Clause 3 of the Bill be amended by deleting the words '*An intersex person who undertakes a medical procedure that leaves them with physical features that are either fully male or fully female*' and replace with '*an intersex person who wishes to change their gender to one that they conform to.*'

75. **Rationale:** It is often an expensive, risky and tedious procedure to undergo gender assignment surgery, hormonal therapy and psychological treatment. It must also be remembered that not all intersex persons are desirous of undergoing gender assignment surgery. It would therefore be unjust to require that intersex persons undergo medical procedures before they can be allowed to live in line with a gender that they most identify with. A person has a right to personal autonomy and should not be denied services that would in actuality spare them from ridicule from the society.

76. The Transgender Education and Advocacy (TEA) proposed

Delete clause 9B(1) and substitute therefor the following –

9B(1) A person who has changed their sex may attend before a registration officer for the purpose of changing the particulars of their sex in the register.

77. **Rationale:** Change of the sex marker should not be dependent on surgical or hormonal procedures. The procedures are not easily accessible, may lead to lose their fertility. Also some intersex people prefer not to undergo any medical procedures as they consider themselves complete as they are but need change of their gender markers in their documents.

4.1.3. Insert new Clause to the Bill

78. The CRADLE proposed that the Bill is amended by the Insertion of Clause immediately after the proposed Clause 9 to read that '*The authorized register may issue an intersex person with a document proving his unique sex.*'

79. **Rationale:** This should be done in order to avoid doubts on his/her documents showing variations on the gender marker or name including education certificates which cannot be changed.

4.1.4. Statement of the Objects and Reasons for the Bill

80. The CRADLE proposed that the phrase *'This will ensure that the registration of such intersex persons reflects their unique gender'* be replaced with *'This will ensure that the registration of such intersex persons reflects their unique sex.'*

81. **Rationale:** Sex concerns the biological make up of a person and therefore includes the intersex condition whereas gender is linked to societal expectations. The Statement of the Objects and Reasons for the Bill refers to the gender of intersex persons and not the sex. The correct terminology is the word sex as intersex persons have both male and female physical sexual attributes. This must be differentiated from transgender persons who are persons whose sense of personal identity and gender does not correspond to their birth sex.²⁴

82. The KNCHR, IPICC and CRADLE made various proposals to amend the Schedules to the Births and Deaths Registration Act and the Registration of Persons Act to introduce the intersex sex marker and ensure that the rules comply with the amendments proposed.

²⁴ Oxford Dictionary 2019 Edition, Cristina Castagnoli, 'Transgender Persons' Rights in the EU Members States' (Policy Department C: Citizens' Rights and Constitutional Affairs, June 2010)

CHAPTER FOUR

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

5.0 Observations and Recommendations

83. The Standing Committee on National Security, Defence and Foreign Relations observed that members of the public generally approved of the Registration of Persons (Amendment) Bill (Senate Bills No. 14 of 2019) but made proposals for further amendment on various clauses of the Bill. The Committee observed and recommended as follows having taken into account oral and written submission by members of the public and stakeholders-

(1) Definition of the term ‘intersex’

84. The Committee concurred with various stakeholders that there was need to expand the current definition to take into consideration the over 46 variations of the intersex condition which may be physical, hormonal, gonadal and chromosomal. The Committee observed that the definition should be comprehensive so as take into account the inherent rights and dignity of Intersex persons.

85. **Recommendation:** The Committee recommends defining the term intersex under Clause 2 as follows- *“intersex” means a person born with sex characteristics that cannot be exclusively categorised in the common binary of female or male due to their inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns, which could be apparent at birth, in childhood, puberty or adulthood.*

(2) Definition of the term ‘sex’

86. The Committee observed that there were proposals from the Transgender Education and Advocacy (TEA) to define the term “sex’ in terms of gender identity rather than biological differences between males and females. The Committee disagreed with the proposal noting that while sex and gender are used interchangeably, sex is the biological differences between males and females based on anatomy, hormones and gonads. Gender on the other hand, is mostly associated with behavioral traits and roles of a male or a female due to environmental, religious, cultural or political socialization of a person.

87. The categorization of sex and gender have social implications, as well as important political and legal implications. The identification of an individual as either biologically

male or female can have legal ramifications on issues such as marriage, adoption, health, planning and sports.

88. Article 45 of the Constitution provides for family. Article 45(1) and (2) states as follows –

45. (1) The family is the natural and fundamental unit of society and the necessary basis of social order, and shall enjoy the recognition and protection of the State.

(2) Every adult has the right to marry a person of the opposite sex, based on the free consent of the parties.

89. Additionally, section 3 of the Marriage Act has defined marriage as follows –

3. (1) Marriage is the voluntary union of a man and a woman whether in a monogamous or polygamous union and registered in accordance with this Act.

(2) Parties to a marriage have equal rights and obligations at the time of the marriage, during the marriage and at the dissolution of the marriage.

90. **Recommendation:** Based on the foregoing, the Committee recommends that the definition of the word “sex” be retained as proposed under Clause 2 but the word ‘either’ be removed from the definition.

(3) Change of particulars of an intersex person

91. The Committee noted the Clause 3 of the Bill provides for change of particulars of an intersex persons who has undergo a medical procedure and become fully male or fully female. The Committee observed that not all intersex persons require medical interventions. Further, medical interventions (if at all) vary from one intersex to another at different stages of their sex development. The provision therefore leaves out intersex persons who may undergo changes naturally and those who have not obtained identity cards and therefore seeking to acquire an Identity Card.

92. The Committee observed that there are over 46 variations of intersex and depending on the variation of the intersex, some intersex variation may end up becoming predominately male or female without any medical intervention. Further, there is need to amend the clause so as to take into account intersex persons who are registering for the first time and those who may undergo changes in the absence of medical intervention. The Committee agreed with stakeholders that a medical report should accompany an application for

registration or change of particulars. The Committee noted that change of particulars should include change of both sex and names of the applicant.

93. **Recommendation:** The Committee recommends that Clause 3 be amended as follows-

9B (1) An Intersex person who seeks to register or change their particulars in the register shall –

(a) obtain a medical report from certified medical practitioner registered under the Medical Practitioners and Dentists Act; and

(b) attend before a registration officer for the purposes of registration or change the particulars in the register.

(4) Amendment to the Schedules

94. The Committee noted that there were several proposals to amend the Schedules to the Act. However, the Schedules which were proposed to be amended are provided for under the Rules to the Acts. Under the two laws which are proposed to be amended, the Cabinet Secretary has powers to make rules on such issues as procedures for change of particular in the register and generally for implementation of the Act.

95. **Recommendation:** The Committee recommends that once Parliament amends the Act to provide for intersex persons, the Cabinet Secretary should ensure the necessary changes to the Rules are made so as to be in compliance with the Act.

96. In addition, the Committee noted that Kenya does not have a policy on intersex persons; and that intersex persons experience numerous challenges in areas such as health, education, employment, as well as other areas of daily life of an ordinary citizen.

97. **Recommendation:** The Committee recommends that the National Government take urgent steps to formulate a policy on intersex persons addressing issues such as health, education, awareness. Additionally, there is need to amend various laws such as the Kenya Citizenship and Immigration Act, Children Act, and Interpretation of General Provisions Act in order to provide for intersex persons and alleviate the challenges experienced by the intersex persons.

ANNEX 1: MINUTES

MINUTES OF THE 13TH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS HELD ON THURSDAY 3RD OCTOBER, 2019 AT 9.00 A.M. IN THE COMMITTEE ROOM ON THE GROUND FLOOR OF COUNTY HALL, PARLIAMENT BUILDINGS

PRESENT

- | | |
|-----------------------------------|------------------|
| 1. Sen. Fatuma Dullo, CBS, MP | Ag. Chairperson |
| 2. Sen. Moses Wetang'ula, EGH, MP | Vice Chairperson |
| 3. Sen. Judith Pareno, MP | Member |

ABSENT WITH APOLOGY

- | | |
|-------------------------------------|------------------|
| 1. Sen. Mohamed Yusuf Haji, EGH, MP | Chairperson |
| 2. Sen. Johnson Sakaja, CBS, MP | Vice-Chairperson |
| 3. Sen. Fred Outa, MP | Member |
| 4. Sen. Beatrice Kwamboka, MP | Member |
| 5. Sen. Susan Kihika, MP | Member |
| 6. Sen. Anuar Loitiptip, MP | Member |

IN-ATTENDANCE

- | | |
|-------------------------|------------------|
| 1. Ms. Kavata Musyoka | Clerk Assistant |
| 2. Ms. Clare Kidombo | Research Officer |
| 3. Mr. Moses Kenyanchui | Legal Counsel |

MIN/SEN/NSDFR/070/2019:

PRELIMINARIES

The Chairperson called the meeting to order at 9.06 a.m. followed by a word of prayer.

MIN/SEN/NSDFR/071/2019:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as presented having been proposed by Sen. Judith Pareno, MP and seconded by Sen. Moses Wetangula, EGH, MP.

MIN/SEN/NSDFR/072/2019:

BRIEF ON THE PETITION ON THE ENACTMENT OF A MILITARY VETERAN LAW TO ADDRESS THE NEEDS OF MILITARY VETERANS AND THEIR DEPENDENTS

The Secretariat took Members through the Petition and a research paper on a comparative analysis on the enactment of a military veteran law in other countries. The Committee took note and raised the following concerns-

MINUTES OF THE 14TH MEETING OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS HELD ON WEDNESDAY 16TH OCTOBER, 2019 IN THE COUNTY HALL MINI CHAMBER, COUNTY HALL BUILDINGS FROM 10.00 AM.

MEMBERS PRESENT

- | | |
|-----------------------------------|----------------------------|
| 1. Sen. Fred Outa, MP | - Member (Ag. Chairperson) |
| 2. Sen. Moses Wetang'ula, EGH, MP | - Member |
| 3. Sen. Fatuma Dullo, MP | - Member |
| 4. Sen. Judith Pareno, MP | - Member |
| 5. Sen. Beatrice Kwamboka, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|-------------------------------------|--------------------|
| 6. Sen. Mohamed Yusuf Haji, EGH, MP | - Chairperson |
| 7. Sen. Sakaja Johnson Arthur, MP | - Vice Chairperson |
| 8. Sen. Susan Kihika, MP | - Member |
| 9. Sen. Anuar Loitip, MP | - Member |

IN ATTENDANCE

- | | |
|---------------------------------|------------------------|
| 1. Sen. (Dr.) Isaac Mwaura, CBS | - Sponsor of the Bill. |
|---------------------------------|------------------------|

SENATE SECRETARIAT

- | | |
|-------------------------|--------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Moses Kenyanchui | - Legal Counsel |
| 3. Ms. Claire Rotich | - Research Officer |
| 4. Ms. Philemon Okinda | - SAA |

ORGANIZATIONS REPRESENTED

1. Ministry of Health
2. Ministry of Interior and Coordination of National Government
3. Kenya National Commission on Human Rights
4. Intersex Persons Society of Kenya
5. CRADLE
6. Jinsiangu
7. Transgender Education and Advocacy

MIN/SEN/NSDFR/076/2019: PRELIMINARIES

The Chairperson called the meeting to order at 10.10 a.m., followed by a word of prayer. He then led an introduction session of all present.

MIN/SEN/NSDFR/077/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Moses Wetangula, EGH, MP, and seconded by Sen. Judith Pareno, MP, as follows –

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Public Hearing on the Registration of Persons (Amendment) Bill, 2019; and
4. Any Other Business & Adjournment.

**MIN/SEN/NSDFR/078/2019: PUBLIC HEARING ON THE
REGISTRATION OF PERSONS
(AMENDMENT) BILL, 2019**

**a) Briefing by the Ag. Chairperson of National Security and Foreign Relations
Committee of the Senate**

The Committee Chairperson took the opportunity to appreciate the Senators and the Members of the Public for attending the meeting. He acknowledged the presence of Senator Mwaura who was the Sponsor of the Bill. He then invited the members of the Public to make their submissions.

**b) Presentation by Mr. Ng'ang'a Wainaina – Deputy of Director, Ministry of
Education**

Mr. Wainaina thanked the Chair for the opportunity and informed the meeting that he was there to learn and listen from other stakeholders so as to enhance the provision of education.

**c) Presentation by Mr. Ryan Muiruri – Director, Intersex Persons Society of
Kenya (IPSK)**

1. Mr. Muiruri began by explaining that IPSK is a non-governmental organization that provides support to the intersex persons in Kenya. He added that IPSK has also served as a member of the defunct Taskforce on policy, legal, Institutional and administrative reforms regarding Intersex persons in Kenya as well as the current intersex persons implementation coordination committee (IPICC).
2. He continued by saying that Intersex persons face a lot of discrimination from all quarters and the medical treatment that they needed to adhere to a certain sex was very costly. He clarified that an intersex person has to undergo tests that may amount to over Kshs. 200,000 and the surgery itself costs over Kshs. 100,000. He mentioned challenges such as lack of qualified medical personnel in Kenya and a long tedious process as some of the medical challenges that intersex persons face.
3. He suggested that the medical processes should be simplified by allowing intersex people to get their documentation process and then get own with the medical

processes at their own convenience. Devolving the process to the health facilities in the counties would also help reduce the back log as it is only done at the Kenyatta Hospital.

4. He also suggested that a third code should be added in the birth certificate and other registration documents so that intersex persons are identified at birth.
5. He concluded that by saying that intersex persons have a challenge in getting passports, birth certificates and identity cards. Those who have IDs, they do not match with physical attributes.
6. There was also no conducive environment in educational institutions due to stigma from the educators and fellow learners.

d) Presentation by the Chief State Counsel Ms. Wanjiku A Mbiyu representing the Ministry of Interior and Coordination of Local Government

Ms. Wanjiku started by giving apologies for the Cabinet Secretary, Dr. Fred Matiangi and that the Ministry would submit a memorandum by Friday 18th October, 2019.

e) Presentation by Ms. Veronica Mwangi – Kenya National Commission on Human Rights

Ms. Veronica stated the following –

1. The Kenya National Commission on Human Rights (“KNCHR” or “National Commission”) is an independent National Human Rights Institution established under Article 59 of the Constitution with a broad mandate to promote a culture of respect of human rights in the Republic of Kenya.
2. The operations of the National Human Rights Commission are guided by the United Nations Paris Principles on the establishment and functioning of independent national human rights institutions commonly referred to as the Paris Principles.
3. The National Commission under Article 249 of the Constitution has a mandate to secure observance of all state organs of democratic values and principles and to promote constitutionalism. Article 10 of the Constitution requires all state organs to ensure they uphold constitutionalism and the rule of law whenever they make public policy decisions or interpret the constitution. One of the strategies pursued by the Commission to secure observance of all state organs of democratic values and principles is through the issuance of advisories.
4. Intersex is a key human rights issue and the Commission has been at the forefront in advocating for the rights of this vulnerable group. Historically, intersex persons continue to face a myriad of challenges and human rights violations as a result of non-responsive laws which adopt a binary system of either male or female. In addition, the societal expectations perpetuate stigma against intersex persons since they cannot fit as being either male or female.

5. Some of the key challenges faced by intersex children and adults include threat to life, loss of life due to suicide and infanticide, torture cruel and inhuman treatment, discrimination, lack of access to adequate medical care, education, employment among other violations that impede on their realization of their human rights.
6. The commission has in the past advocated for the rights of intersex persons through judicial interventions¹, undertaking research on the plight of intersex and subsequently appointed to provide secretariat and as a member of the taskforce on policy, legal, institutional and administrative reforms regarding intersex persons in Kenya. Recently the Commission was at the forefront in the advocacy with the Kenya National Bureau of Statistics for inclusion of intersex persons as a third sex marker in the just concluded Kenya Population and Housing census.
7. The taskforce successfully undertook a nationwide survey which enabled them to make findings on the plight of intersex persons in Kenya. Thereafter a final report was submitted to the Honourable Attorney General in March 2019 for further implementation of the proposed recommendations touching on policy, legal, institutional and administrative reforms.
8. Currently the Commission is leading the Intersex Persons Implementation Coordination Committee(IPICC) gazetted through Gazette Notice No. 7264 of 2019 to assist the Government of Kenya implement the taskforce recommendations.

f) Presentation by Ms. Audrey Mbugua, the Chairperson of Transgender, Education and Advocacy

Ms. Mbugua stated the following -

1. That though the transgender community in Kenya supports legislative and administrative reforms that safeguard and promote the human rights of persons with intersex conditions, it is concerned that some of the proposed initiatives will be deleterious to the well-being of transgender people. This is because that the first time Kenya will have a legal definition of sex but the proposed locks out transgender people from legal recognition. Additionally, there is need to ensure sex markers denote gender identities not sex organs.
2. Proposed a comprehensive overhaul of the Registration of Person Act and the Births and Deaths Registration Act. Listed limitations of the proposed amendments as -
 - i. It only targets people who are 18 years and above.
 - ii. It is silent on changes of names and sex markers in birth certificates.
 - iii. It does not eliminate the administrative bureaucracies associated with changes of names which is carried out using a deed poll and gazette notice.
 - iv. This amendment will also imperil changes of sex markers from transgender Kenyans since the implication of these amendments is

anyone who is not intersex cannot amend the sex marker in national identity card.

3. She concluded by making the following recommendations –
 - i. Make comprehensive amendments to both the Registration of Persons Act and Birth and Deaths Registration Act on matters of sex reassignment and name changes for Kenyans
 - ii. Move away from the use of individuals' genitalia and other physical characteristics to determine their sex. Personal autonomy and an individual's gender identity should be respected, recognised and appreciated.
 - iii. Have laws that do not push people to undertake medical procedures for their gender/sex to be legally recognized

g) Presentation by Ms. Shantal Onyango – CRADLE

Ms. Shantal stated that Cradle will submit their presentation by Friday, 18th October, 2019.

h) Presentation by Mr. Peter Maingi –Member of IPSK

Mr. Maingi introduced himself as a parent of an intersex child and continued as follows –

1. That most surgery done to intersex children is not necessary. The doctors should wait until the body is able to express itself which is normally during puberty;
2. The cost of the surgeries is prohibitive.
3. Because of the unfriendly laws, parents are forced to acquire documentation for the child ie birth certificate passports and identity cards illegally
4. The government should make and implement favourable laws do deal with the following issues regarding intersex persons: health, social amenities and facilities like education and abolishing of infanticide, reproduction and addition of the third code to determine sex.

i) Presentation by Dr. Simon Kibias, Ministry of Health

Dr. Kibias stated that the Ministry was there to listen and ensure that they have the capacity to recognize the intersex, the ability to correctly diagnose them which is a long and tedious process and availing the treatment in terms of surgical and hormonal.

j) Presentation by Ms. Kwamboka Kibiagendi, Jinsiangu

1. Ms. Kwamboa listed the following challenges facing intersex people
2. Lack of awareness among the general public
3. Lack of security for the intersex in the toilets, other social facilities, schools and prisons
4. Lack of jobs – generally due to lack of awareness
5. Health issues – health services should be devolved so that the intersex can access services at county levels.
6. Education – lack of access to education because of lack of proper documentation like birth certificates and stigmatization

7. Inability to access services like mpesa.

k) Members interventions

1. The Members were informed that the actual numbers of intersex persons in Kenya was not known;
2. They commended Sen. Mwaura for coming up with the Bill;
3. The Ministry of interior to submit their amendments to the Act at a later date but the Senate bill will continue through the process;
4. That the Committee wants to come up with the best law that will preserve and uphold human dignity;
5. The Sponsor of the Bill, Sen. Mwaura completely agreed with the amendments from Kenya National Commission on Human Rights.

l) Way forward

The Kenya National Commission on Human Rights together with the Intersex Persons Society of Kenya and the Senate should hold a breakfast meeting for all senators to create awareness among the Senators on intersex issues.

MIN/SEN/NSDFR/079/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 12.45 p.m.

SIGNATURE.....

(CHAIRPERSON: SEN. MOHAMED YUSUF HAJI)

DATE.....19/11/2019.....

MINUTES OF THE 15TH SITTING OF THE STANDING COMMITTEE ON NATIONAL SECURITY AND FOREIGN RELATIONS HELD ON THURSDAY, 7TH NOVEMBER, 2019 IN THE GROUND FLOOR BOARDROOM, COUNTY HALL, AT 9.00 A.M.

PRESENT

1. Sen. Johnson Sakaja, CBS, MP
2. Sen. Moses Wetangula, EGH, MP
3. Sen. Beatrice Kwamboka, MP
4. Sen. Susan Kihika, MP
5. Sen. Fred Outa, MP

ABSENT WITH APOLOGY

- | | |
|--------------------------------|-----------------|
| 1. Sen. Mohamed Yusuf Haji, MP | Chairperson |
| 2. Sen. Anuar Loitiptip, MP | Member |
| 3. Sen. Fatuma Dullo, MP | Ag. Chairperson |
| 4. Sen. Judith Pareno, MP | Member |

IN ATTENDANCE

- | | | |
|-------------------------|---|------------------|
| 1. Ms. Carol Kirorei | - | Clerk Assistant |
| 2. Ms. Clare Kidombo | - | Research Officer |
| 3. Mr. Moses Kenyanchui | - | Legal Officer |

SENATE

MIN/SEN/NSDFR/080/2019:

PRELIMINARIES

The Chairperson called the meeting to order at 9.25 a.m. followed by a word of prayer.

MIN/SEN/NSDFR/081/2019:

ADOPTION OF THE AGENDA

Members adopted the agenda of the meeting as presented after being proposed by Sen. Moses Wetangula, MP and seconded by Sen. Beatrice Kwamboka, MP.

MIN/SEN/NSDFR/082/2019:

CONSIDERATION OF THE MATRIX ON SUBMISSIONS RECEIVED ON THE REGISTRATION OF PERSONS (AMENDMENT) BILL, 2019

The Legal Counsel presented the Matrix on submissions received on the Registration of Persons (Amendment) Bill (Senate Bills No. 14 of 2019). The Committee considered the submissions as follows:

1. Clause 2

Proposal: Delete the definition of the word “intersex” and substitute therefor the following definition –

“ Intersex” means a person who is conceived and born with a biological sex characteristic that cannot be exclusively categorized in the common binary of female or male due to their inherent and mixed anatomical, hormonal, gonadal (ovaries and testes) or chromosomal (X and Y) patterns, which could be apparent prior to, at birth, in childhood, puberty or adulthood.

Resolution: Agreed to with amendments.

Proposal: In the definition of the word “sex”, delete the word “either” ‘Sex’ means male, female or intersex.

Resolution: Agreed to.

Proposal: Replace sex with gender which is defined under the NGEC Act 2011

Resolution: Not agreed to.

Proposal: Replace sex with gender which is defined under the NGEC Act 2011

Resolution: Not agreed to.

Proposal: Replace the definition of the word ‘sex’ with -

Sex markers shall take the form of either: Male, Female, Intersex, Transgender and Others.

Resolution: Not agreed to.

2. Clause 3

Proposal: Delete the proposed section 9B(1) and substitute therefor the following –

9B (1) An Intersex person who seeks to change their particulars shall:

- i) obtain a medical report certified by a competent medical practitioner duly registered as a member of the Kenya Medical Practitioners Board;
- ii) upon receipt of the medical report under subsection (i) attend before a registration officer within 12 months for the purposes of changing the particulars of their name and sex in the register.

Resolution: Agreed to with amendments.

Proposal: Delete clause 9B(1) and substitute therefor the following –

9B(1) A person who has changed their sex may attend before a registration officer for the purpose of changing the particulars of their sex in the register.

Resolution: Not agreed to.

Proposal: Amend the proposed new section 9B(1) by deleting the words ‘An intersex person who undertakes a medical procedure that leaves them with physical features that are either fully male or fully female’ and replace with ‘an intersex person who wishes to change their gender to one that they conform to.’

Resolution: Not agreed to.

Proposal: Delete clause 9B(1) and substitute therefor the following –

9B(1) A person who has changed their sex may attend before a registration officer for the purpose of changing the particulars of their sex in the register.

Resolution: Not agreed to.

3. New Clauses

Proposal: Various amendments to the Schedules

Resolution: Not agreed to.

Proposal: Include Section 14A

a) Marginal notes - *Change of name and sex of child*

b) Include 14A

‘An intersex person may amend their sex marker from male or female to intersex, or from intersex to male or female or from male to female or from female to male, upon the production to the registrar of a medical report from a registered medical officer of health’.

Resolution: Agreed to.

4. **Proposal:** Insert the following new clause 2 (c) immediately after the proposed new clause 2 (b) –

2(c) A person who has been proved to be an intersex person shall not change their sex more than once unless in the opinion of a trained medical practitioner or psychologist, new circumstances have arisen which force the intersex person to seek reassignment surgery

Resolution: Not agreed to.

5. **Proposal:** Insert the following new clause 10 immediately after the proposed Clause 9 –

The authorized register may issue an intersex person with a document proving his unique sex.

Resolution: Not agreed to.

MIN/SEN/NSDFR/083/2019: PETITION CONCERNING THE ENACTMENT OF A MILITARY VETERAN LAW TO ADDRESS THE NEEDS OF MILITARY VETERANS AND THEIR DEPARTMENT

The Committee was informed that the Petition was pending official redirection by the Speaker of the Senate.

MIN/SEN/NSDFR/084/2019: ANY OTHER BUSINESS

1. Resignation of the Vice-Chairperson

Sen. Johnson Sakaja, MP informed the Committee that vide a letter dated 28th October, 2019, he tendered his resignation as the Vice-Chairperson of the Committee. He noted that pursuant to the Senate Standing Orders, the Committee should conduct elections of the Vice-Chairperson within 14 days.

2. Workshop by the Ministry of Foreign Affairs

The Committee was informed that the Ministry of Foreign Affairs had organized a workshop on Acceleration of Kenya's Treaty Making and Ratification Process between 24th and 30th November, 2019 in Mombasa County. Members requested the secretariat to upload a copy of the invitation on the Committee's WhatsApp page for confirmations.

MIN/SEN/NSDFR/085/2019: DATE OF NEXT MEETING

The next meeting would be on notice.

MIN/SEN/NSDFR/086/2019: ADJOURNMENT

The Sitting was adjourned at 10.35 a.m.

SIGNED:.....
SEN. MOHAMED YUSUF HAJI, EGH, MP (CHAIRPERSON)

DATE:.....
19/11/2019

MINUTES OF THE 16TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON TUESDAY 12TH NOVEMBER, 2019, IN THE COMMITTEE ROOM ON GROUND FLOOR OF COUNTY HALL BUILDING AT 9.00 A.M.

PRESENT

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – **Chairperson**
- 2) Sen. Sakaja Johnson, CBS, MP – **Vice Chairman**
- 3) Sen. Moses Wetangula, EGH, MP
- 4) Sen. Judith Pareno, MP
- 5) Sen. Fred Outa, MP

APOLOGIES

- 1) Sen. Susan Kihika, MP
- 2) Sen. Fatuma Dullo, CBS, MP
- 3) Sen. Anuar Loititip, MP
- 4) Sen. Beatrice Kwamboka, MP

MIN/SEN/NSDFR/087/2019: PRELIMINARIES

The meeting commenced at 9.20 a.m. with a word of prayer.

MIN/SEN/NSDFR/088/2019: AGENDA

The Agenda of the meeting was proposed and seconded by Sen. Moses Wetangula, MP and Sen. Johnson Sakaja, MP respectively as follows;

1. Prayer
2. Adoption of the Agenda
3. **Consideration of Report (Public Hearing Report on Registration of Persons Bill)**
4. **Adoption of Report (Petition on Settlement of awards to Ex-Kenya Airforce Officers and Servicemen)**
5. Any Other Business
6. Adjournment

MIN/SEN/NSDFR/089/2019 CONSIDERATION OF REPORT

The secretariat took the Members through a draft report on the public hearing on the Registration of Persons (amendment) Bill, held on 16th October, 2019.

The Committee clarified that the report should be clear about the difference between transgender and intersex. The Committee further tasked the secretariat to ensure that the identity of the victims should be protected.

The Report was adopted with a majority of Members present with the five Senators present.

MIN/SEN/NSDFR/090/2019:

**ADOPTION OF THE REPORT ON THE
PETITION ON SETTLEMENT OF
AWARDS TO EX-KENYA AIRFORCE
OFFICERS AND SERVICEMEN**

The secretariat took the Members through the draft report which was adopted with the following amendments;

- i) That recommendation number one as presented in the draft is deleted.
- ii) That timelines are indicated in the report as to when the Ministry should report back to the Senate on progress.

MIN/SEN/NSDFR/091/2019:

ADJOURNMENT

The meeting was adjourned at 10.23 a.m.

SIGNED.....

(Chairperson)

DATE.....19/11/2019.....

MINUTES OF THE 17TH SITTING OF THE NATIONAL SECURITY, DEFENCE & FOREIGN RELATIONS HELD ON WEDNESDAY 13TH NOVEMBER, 2019, IN THE COMMITTEE ROOM ON GROUND FLOOR OF COUNTY HALL BUILDING AT 10.00 A.M.

PRESENT

- 1) Sen. Mohammed Yusuf Haji, EGH, MP – **Chairperson**
- 2) Sen. Sakaja Johnson, CBS, MP – **Vice Chairman**
- 3) Sen. Moses Wetangula, EGH, MP
- 4) Sen. Fred Outa, MP

APOLOGIES

- 1) Sen. Susan Kihika, MP
- 2) Sen. Fatuma Dullo, CBS, MP
- 3) Sen. Anuar Loititip, MP
- 4) Sen. Judith Pareno, MP
- 5) Sen. Beatrice Kwamboka, MP

MIN/SEN/NSDFR/092/2019: PRELIMINARIES

The meeting commenced at 9.20 a.m. with a word of prayer.

MIN/SEN/NSDFR/093/2019: AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of Minutes of the 14th, 15th and 16th Sittings
4. **Meeting with the Cabinet Secretary, Ministry of Interior and Coordination of National Government**
5. Any Other Business
6. Adjournment

MIN/SEN/NSDFR/094/2019 CONFIRMATION OF MINUTES

Minutes of the 14th Sitting held on 16th October, 2019, were confirmed having been proposed and seconded by Sen. Fatuma Dullo, CBS and Sen. Judith Pareno, MP, respectively.

Minutes of the 15th Sitting were confirmed having been proposed and seconded by Sen. Fred Outa, MP and Sen. Moses Wetangula, EGH, MP, respectively.

Minutes of the 16th Sitting were confirmed as a true record having been proposed and seconded by Sen. Johnson Sakaja, CBS, MP and Sen. Moses Wetangula, EGH, MP, respectively.

MIN/SEN/NSDFR/095/2019

**MEETING WITH CABINET
SECRETARY, MINISTRY OF
INTERIOR AND
COORDINATION OF NATIONAL
GOVERNMENT**

The Vice Chairperson briefed the meeting that the Committee was in receipt of responses from the Ministry of Interior and Coordination of National Government, which has been shared with the respective Senators who had requested. The Members noted that in its invitation, the Committee had invited the Cabinet Secretary and the Inspector General of Police to clarify on a number of issues before the Committee.

The CAS gave apologies of the Cabinet Secretary who was on other official engagements and requested to clarify on the issues before the Committee.

After consultations the Committee resolved to adjourn the meeting and have the Cabinet Secretary, the Inspector General of Police, the Registrar of Persons, Immigration and Prisons Department to appear on Wednesday 20th November, 2019.

MIN/SEN/NSDFR/097/2019: ADJOURNMENT

The meeting was adjourned at 10.56 a.m.

SIGNED.....

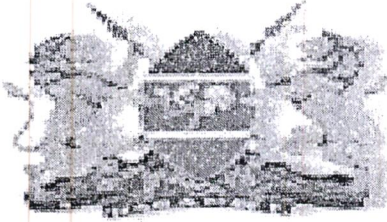
(Chairperson)

DATE..... 19 - 11 - 2019

Bundle of documents tabled
by Sr. Abdurahman Hassan
on Wednesday 9/03/2016
[Signature]



12



MINISTRY OF INTERIOR AND CO-ORDINATION OF NATIONAL GOVERNMENT

DEPARTMENT OF NATIONAL REGISTRATION BUREAU

INTERNAL MEMO

From: Principal Registrar – Legal

To: Assistant Director (Production)

Date: 17th December, 2013

Ref: Loose Memo

RE: SUSPECTED ILLEGAL REGISTRATION: ID/NOS. 14219196 – 869 AND 14219871 - 895

We have been requested by one of our stakeholders to avail the Master Copy records pertaining to ID/No. **14219836**. A search conducted on the Bureaux and Jogoo Basement was futile.

From the computerized database, it was found that the above quoted ID/Nos. were processed from the same station, period and persons from one ethnic group.

This is to request you to take the necessary action to enable us launch further enquiries.

[Signature]
John M. Kinyumu
Principal Registrar – Legal

I nadani hereof
Please deal
Boyer

10/03/14
II Action taken: Placed
undo status illegal
registration
Lucy
11/3/14

NRB/CEN/INV/OPS/14/27907 VOL 11/100
111. APR 20



OFFICE OF THE VICE PRESIDENT
MINISTRY OF STATE FOR IMMIGRATION AND
REGISTRATION OF PERSONS

104
116

Telephone 020 23821 69

NATIONAL REGISTRATION BUREAU

P. O. BOX 81 - 70300

When replying please quote

MANDERA

Ref No: NRB/MDR/INV/VOLI (61)

JUNE 30, 2010

THE DIRECTOR,
NATIONAL REGISTRATION BUREAU,
P. O. BOX 57007 - 00100
NAIROBI.

RE : SUSPICIOUS APPLICATIONS - SOMALI CASES

Reference is made to the Director's letter NRB/CON/OPS/SEC/2/4/VOL IV/14 dated 22nd January 2010.

Enclosed herewith find the under listed applications this office suspected to be non-Kenyans during registration exercise carried out in Mandera East District between March and June 2010.

The forms are forwarded to your office further necessary action.

DISTRICT REGISTRAR (P)
MANDERA EAST
P. O. Box 81, MANDER

LEONARD M. KITHAE
DISTRICT REGISTRAR [P]
MANDERA EAST.

Encls.

	NAME OF APPLICANT	SERIAL NO.
1	ABDIAZIZ AHMED ABDULLAHI	228042132
2	ABSHIR FARAH SALAT	227673341
3	ABDIKADIR HUSSEIN HASSAN	227673484
4	FARHIYA ABDIKARIM SHEIKH	227673485
5	MOULID MOHAMED HASSAN	227673486
6	ISSA HASSAN MADEY	227673097
7	IBRAHIM AHMED YERROW	227673093
8	MOHAMED RAGA MADEY	227673090
9	ABDIRAHMAN HILLOW IBRAHIM	227673083
10	MARIAN HASSAN SHEIKHOOL	227673079
11	HASSAN AHMED SHEIKH	227673145
12	ABDI MUKTAR ADAW	227673304
13	SHAMSA ISMAIL MOHAMED	227673309
4	FATUMA ADAN NUROW	227673275
15	MOHAMED IBRAHIM ABDIRAHMAN	227673261
16	DAKAN ABDIRAHMAN ALI	227673259
17	HASSAN MAALIM ADAN	227673441
18	NURDIN ALI MOHAMED	227673452
19	SAREYA ABDULLAHI ABIKER	227673437
20	NOOR IBRAHIM ISSACK	227673429
21	NAFISA KALIL MAHAMUD	227673420
22	ABDIA MUKTAR MAHAMUD	227673405
23	ABDULLAHI OMAR HASSAN	227673401
24	AMINA MOHAMED ABDI	227673382
25	ABDIAZIZ MOHAMED ADAN	227673370
26	MULKI BASHIR SHEIKH	227673356
27	HUSSEIN MOHAMED ABDI	227673350
28	GEDI MOHAMED OMAR	227673196
?	HABON ABDIRAHMAN ADOW	227673346
30	YUSUF BASHIR MOHAMED	227673421
31	ABDIRASHID ADAN DAHIR	227673058
32	HUSSEIN MOHAMED ABDIRAHMAN	227673949
33	MARYAN MOHAMED ABDIRAHMAN	227673971
34	FARDOWSA ALIO MOHAMED	227673064
35	MOULID JIBRIL HUSSEIN	227673037
36	DERROW BILLOW SHEIKH	227673036
37	MOHAMED MUHUMED ABDULLAHI	227673041
38	MOHAMED ALI MOHAMED	227673009
39	ABDULLAHI MOHAMED HASSAN	227673935
40	ADAN AHMED GAIYE	227620125
41	MADINA MOHAMED ADAN	227620777

227673350

42	KHADIJA MOHAMED BULLE	227620904
43	HABIBA ABDIKADIR KASSIM	227620840
44	ABDIRASHID SHEIKH ADAN	227620833
45	HASSAN ABDI JILLAHOW	227620903
46	FATUMA ABASS HASSAN	228042894
47	ABDI MOHAMED ALI	228042289
48	MAHAT YUSUF FARAH	228042294

IDENTIFICATION REPORT

Printed on Wednesday, November 19 2014 at 10:28:52

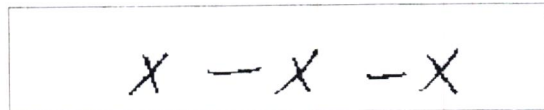
Application Number : 2166241497 **Card Number : 216624149** **Individual Number : 14111259**
Status : SA - SUSPECTED ALIEN-INVESTIGATION **Date of Status : 10/11/2012** **Type : 3 - DUPLICATE (LOST OR STOLEN)**
Date of Issue : 10/26/2004 **Registration Office : 4771 - MAKADARA**
Tray Reference : 52 10/21/2004 **Archive Reference : 0039001400259D0A**
Previous Card Number 217454666 **Next Card Number**
Full Name : FARTUN ABDI ALI **Sex : F** **Occupation : 0901 - UNEMPLOYED**
Date of Birth : 1977 **District of Birth : 091 - MANDERA EAST**
Home District : 091 - MANDERA EAST **Village : BULLA MPYA**
Division : 0911 - CENTRAL **Tribe : 77 - SOMALI-SO-STATED**
Constituency : 0920 - MANDERA CENTRAL **Clan : NA**
Location : 09115 - BULLA MPYA **Family : NA**
Sub-Location : BULLA MPYA **Father's Names : ABDI ALI**
Address : C/O CHIEF BULLA MPYA **Mother's Names : ASHA HASSAN**

Full Name : **Sex :** **Classification Formula Numerator :**
Date of Birth : **Home District :** **Classification Formula Denominator :**

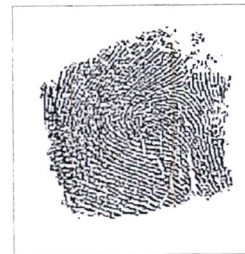
PHOTO



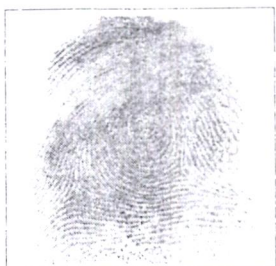
SIGNATURE



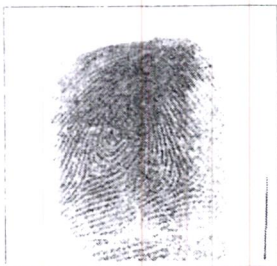
FINGERPRINT



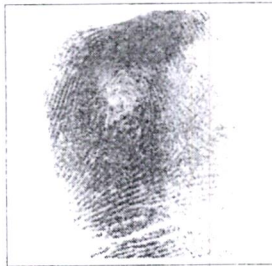
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RF



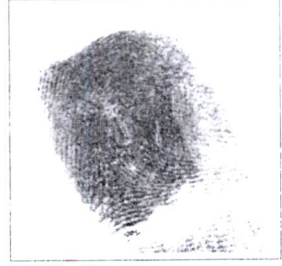
RM



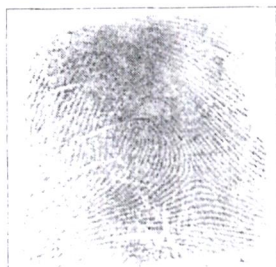
RR



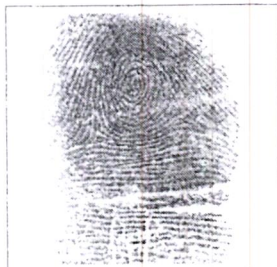
RL



LT



LF



LM



LR



LL



Please read correctly and fill the form below as applicable, starting with your father and mother, all brothers the sister, steps mother, stepbrother, step sister in order of the ages/year of birth

APPLICANT'S NAME YUSSUF HASSAN YUSSUF Khalif

K.C.P.E CERTIFICATE NO 0755042

BIRTH CERTIFICATE NO 159779

DOB 10-7-1997

SCHOOL LEAVING CERTIFICATE NO 0232

NO	NAME	RELATIONSHIP	DOB	ID	OCCUPATION	PRI SCHOOL	RESIDENCE	PHONE NO
1	HASSAN YUSSUF K	father	1960	0052753	Driver	11	N. West	0727250211
2	KALUMA Osman	mother	1-1-1961	6391170	H. wife	11	11	072087257
3	AMAL Hassan Y.	Sister	1985	25207107	KRA officer	Kissii pr	11	0727290333
4	AMRAN Hassan Y.	Sister	1990	28773974	Admission	Yangamulua	11	0712229694
5	Mohamed Faj Hassan Y.	Brother	1991	28773978	Student	Yangamulua	11	0725497168
6	BALDEISA Hassan	Sister	1993	30883522	Student	NAKURU	11	0707868442
7							11	
8								
9								
10								

Confirmed by Estate representative/elder

Confirmed by Asst.chief

Recommended /Not Recommended

NAME WARFA MOHAMMED A. Osman

NAME Margaret Wainane

REASON From my jurisdiction

ID NO 3338657

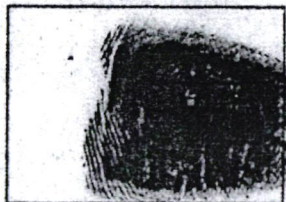
ID NO 8978945

CHIEF Rose Kibocha

SIGN [Signature]

SIGN [Signature]

LOCATION NAIROBI WEST SIGN R. Kibocha



ASSISTANT CHIEF
SOUTH C. SUB-LOC
LANGATA SUB-COUNTY

NAIROBI WEST DIVISION
CHIEF

Caution: any person who provides misleading information is liable to prosecution under the registration of persons act (cap 107 laws of Kenya)

NATIONAL REGISTRATION BUREAU

LANGATA SUB COUNTY

NAIROBI COUNTY

DATE.....

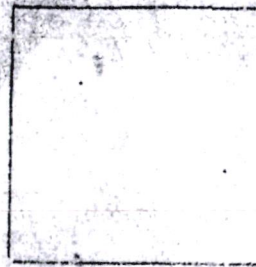
THE CHIEF,

.....location

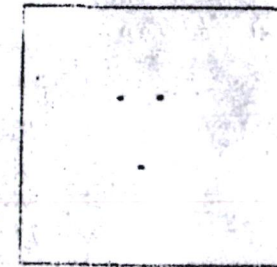
Langata Sub County

Re: Identification of Kenyan Citizens

NAME.....



PHOTO



LTP

The above named person whose photograph appears above is hereby referred to you for identification prior to being registered as a Kenyan

Please assist in gathering and providing the applicant's details on the reverse of this letter

.....
Sub county registrar

LANGATA SUB COUNTY



REPUBLIC OF KENYA

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

SCHOOL LEAVING CERTIFICATE

ATLAS SECONDARY SCHOOL
P. O. BOX 79186-00400 NAIROBI
+254 722110027, +254725256633

Admission/Serial No: IG/2277

THIS IS TO CERTIFY THAT YUSSUF HASSAN YUSSUF

entered this school on JANUARY 2012 and was enrolled in standard YEAR 8

and left on MAY 2015 from standard YEAR 11 having satisfactorily

completed the approved course for standard YEAR 11 (IGCSE)

Date of Birth (in Admission Register) 10/07/1997

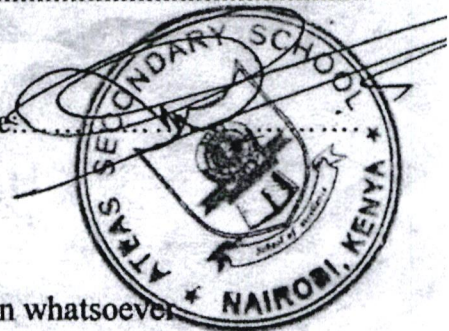
Head teacher's report on pupil's ability, industry and conduct

He is a responsible, obedient, hardworking student with an average academic performance. While in school, he was an active member of Science and Football Clubs.

Pupil's signature:

Principal's signature:

Date: 05/1/2016



The certificate was issued without any erasure or alteration whatsoever

The Kenya National Examinations Council



KENYA CERTIFICATE OF PRIMARY EDUCATION KCPE

This is to certify that the candidate named below sat for the **Kenya Certificate of Primary Education** examination and qualified for the award of this certificate. The candidate attained the subject grades shown below.

NAME: YUSSUF HASSAN YUSSUF
SCHOOL: YOUNG MUSLIM ACADEMY

801103/050
801103

ENGLISH LANGUAGE
KISWAHILI
MATHEMATICS
SCIENCE
SOCIAL STUDIES AND RELIGIOUS EDUCATION

GRADE

C- (MINUS)
D+ (PLUS)
C (PLAIN)
C- (MINUS)
C+ (PLUS)

EXAMINATION OF 2011
PRINTED : 120806 : 13510120

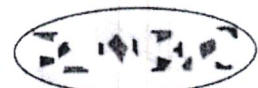


Secretary
Kenya National Examinations Council

Chairman
Kenya National Examinations Council

This certificate was issued without any alteration whatsoever. See overleaf for grades and mark intervals.

KCPE /11 0755042



Pearson Edexcel International GCSE

JUNE 2015

This is to certify that

YUSSUF HASSAN YUSSUF

KENYA NATIONAL EXAMINATIONS COUNCIL

achieved the following results in

FIVE SUBJECTS

MATHEMATICS	GRADE A (a)
PHYSICS	GRADE A (a)
CHEMISTRY	GRADE B (b)
BIOLOGY	GRADE D (d)
ENGLISH LANGUAGE	GRADE E (e)

94044:3083:L2O054593:100797:ISSUED 13-JAN-2016



Lesley Davies OBE
Responsible Officer
Pearson Education Ltd.

CERTIFICATE OF BIRTH

in the Garissa District in the North Eastern

L00800822/11	Where Born	Garissa	Name Yussuf
10-07-1997	Sex	Male	Name and Surname of Father Hassan Yus
Maiden Mother	Kaltuma Osman Warfa		
Description of informant	Sgd. Parent		
Signature of officer	H.E. Odhiambo	Date of Registration	28-01-2011

H.E. Odhiambo

District

for Garissa District, hereby certify that this certificate is complete in the Register of Births in the District.

Gca No. 8400 of 28-01-2011

Auth No. 975 of 28-01-2011

District/Assistant Registrar

The Seal of the Director of Civil Registration on the 28th day of January

This certificate is issued in pursuance of the Births and Deaths Registration Act (Cap. 149) which provides that any entry in any register or return purporting to be sealed or stamped with the seal of the Director of Civil Registration shall be received as evidence of the dates and facts therein contained without any further proof.

Certificate of Birth is not Proof of Kenyan Citizenship.

THE CO-OPERATIVE UNIVERSITY COLLEGE OF KENYA

12. FEES

DETAILS	2012/2013	2011/2012
	Ksh	Ksh
Main Campus	64,415,448	62,332,869
Town Campus	7,863,500	12,965,376
Degree program.	20,421,822	13,993,765
Mombasa Camp	970,000	898,000
Meru campus	3,642,517	3,115,027
Students Fees Refunds	(2,320,290)	-
Total	94,992,997	93,305,037

13. OTHER INCOME

	2012/2013	2011/2012
	Ksh	Ksh
Income for the year from seminar activities	9,801,853	15,337,949
Rent Income	6,977,236	7,464,282
Miscellaneous income	9,522,873	6,116,653
Interest income	-	383,210
Profit on asset disposal	-	96,284
Total	26,301,962	29,398,377

THE CO-OPERATIVE UNIVERSITY COLLEGE OF KENYA

14. PERSONNEL COSTS		2012/2013	2011/2012
Personnel Emolument and Pension Expenses		146,317,564	78,036,856
Other Personnel Related costs		18,900,433	20,589,474
TOTAL PERSONNEL COSTS	14 (a)	165,217,997	98,626,330
OPERATING COSTS			
Telephone and Postal expenses		3,029,893	2,620,136
Water and Electricity Expenses		13,993,721	13,089,901
Medical expenses		7,892,805	5,847,042
General office Expenses		3,882,210	1,795,260
Consumable Stores		1,345,142	1,025,903
Purchase of Food & Rations		28,079,796	20,645,615
Students Expenses		10,438,917	9,606,900
Transport and Insurance		4,926,368	3,327,575
Repair and Maintenance		9,353,104	4,680,332
Official Entertainment		334,823	353,169
Advertising & Publicity		5,433,321	2,512,279
Computer Expenses		1,665,769	1,103,069
Contracted professional services		3,287,342	1,328,631
Town Campus		10,280,534	11,740,881
Degree program		12,689,982	14,389,840
Meru Campus		4,394,984	3,689,244
Swedish co-operative centre		5,529,530	4,263,429
14 Seater Matatu Sacco		-	337,900
Mombasa Campus		726,941	1,020,681
Research		4,258,345	394,600
Development of Training Programme		-	130,700
Purchase of Computers		84,000	-
Rent and Lease Charges		4,255,010	-
Development of Water and Sewage		-	589,192
Purchase of Cutlery		16,285	-
Renovations		6,035,576	1,429,412
Legal Fees (Management Information System)		2,090,000	3,507,628
Seminar Expenses		2,622,193	-
International Organization for Standardization		603,381	690,345
Yatta Project		-	1,248,062
Frich Project		1,236,199	1,267,660
TOTAL OPERATING COSTS	14 (b)	148,486,168	112,635,385

15. EXPENSES ON COUNCIL & CONFERENCE

	2012/2013 Ksh	2011/2012 Ksh
Sitting allowance	5,121,000	2,473,578
Traveling Allowance	558,998	164,000
Night out allowance	884,515	1,687,190
Chairman Honoraria	1,107,741	880,000
Total	7,672,254	5,204,768

16. The amount of Ksh **290,000** is provision for audit fee for the financial year audit by Kenya national audit office.
17. Deficit for the year of Ksh **7,324,273** compared to last financial deficit of Ksh **41,775,028**.
18. **Disclosure: Ksh.45,124,338.70**
The contractor to the Management Information System project which has been under arbitration was awarded Ksh. **45,124,338.70** as damages by the arbitrator. The College management appealed to the High court of Kenya and the decision of the High court was in favor to the college. The contractor has indicated that he intends to go to the Court of Appeal.
19. **Contingent Liability.** Leave allowance for the year ending December 2012, had not been paid as at 30th June 2013. The amount will be paid during the 2013-2014 financial year.
20. **Employees** – the college has 180 permanent and pensionable employees. The college has transferred its unfunded pensionable from the Government of Kenya and have its own defined contribution Scheme.
21. **Finance cost-** These are bank charges for 2012-2013 financial year.
22. All the college transactions have been in Kenya Shillings.

East African Community Appropriation Bill, 2020

East African Community Appropriation Bill, 2020

THE EAST AFRICAN COMMUNITY
APPROPRIATION BILL, 2020

ARRANGEMENT OF CLAUSES

Clause

1. Short title and commencement
2. Appropriation for financial year ending 30th June, 2021

A Bill for an Act

ENTITLED

**THE EAST AFRICAN COMMUNITY
APPROPRIATION ACT, 2020**

An Act of the Community to appropriate a sum of United States Dollars ninety-seven million, six hundred and sixty-nine thousand, seven hundred and eight out of the budget of the Community to meet expenditure for the Organs and Institutions of the Community for the financial year ending 30th June, 2021.

ENACTED by the East African Community and assented to by the Heads of State.

1. This Act may be cited as the East African Community Appropriation Act, 2020 and shall be deemed to have come into force on the 1st day of July, 2020. Short title and Commencement.
2. Appropriation of the sum of United States Dollars ninety-seven million, six hundred and sixty-nine thousand, seven hundred and eight is allowed out of the budget of the Community to meet expenditure of the Organs and Institutions of the Community, as specified in the Schedule, for the financial year ending 30th June, 2021. Appropriation for financial year ending 30th June, 2021

THE NATIONAL ASSEMBLY STANDING ORDERS

In Exercise of the powers conferred by Article 124 of the Constitution of the Republic of Kenya, the National Assembly, by resolution passed on 9th January, 2013, adopted these Standing Orders and the Houses of Parliament (Joint Sittings) Rules.

AMENDMENTS

The 4th Edition of the Standing Orders incorporates amendments made by the National Assembly on the following dates-

- (a) 25th April, 2013,*
- (b) 6th May, 2013,*
- (c) 4th December, 2013,*
- (d) 11th June, 2014,*
- (e) 28th August, 2014,*
- (f) 15th June, 2017,*
- (g) 7th December 2017,*
- (h) 23rd August 2018, and*
- (i) 6th May, 2020.*

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PRAYER

Almighty God, who in Your wisdom and goodness have appointed the offices of Leaders and Parliaments for the welfare of society and the just government of the people, we beseech You to behold with Your abundant favour, us Your servants, whom You have been pleased to call to the performance of important trusts in this Republic.

Let Your blessings descend upon us here assembled, and grant that we treat and consider all matters that shall come under our deliberation in so just and faithful a manner as to promote Your Honour and Glory, and to advance the peace, prosperity and welfare of our Country and of those whose interests You have committed to our charge.

AMEN

OMBI

Ewe Mwenyezi Mungu, ambaye kwa hekima na wema wako umeteua nyadhifa za viongozi na mabunge kwa ustawi wa jamii na utawala wa haki wa wanadamu: twakusihhi ututazame kwa neema nyingi sisi watumishi wako, ambao umeridhika kutuita ili tutekeleze shughuli muhimu za Jamhuri hii yetu.

Twakuomba ututeremshie baraka zako sisi tuliokutanika hapa, na utujalie tuyatende na kufikiria mambo yote yatakayofikishwa mbele yetu kwa njia ya haki na uaminifu ili utukufu na sifa zako ziendelezwe, na ili kustawisha amani, ufanisi na heri ya nchi hii yetu na wale ambao haja zao umezikabidhi mikononi mwetu.

AMINA

PART I—INTRODUCTORY

In cases not provided for, the Speaker to decide

1. (1) In all cases where matters are not expressly provided for by these Standing Orders or by other Orders of the House, any procedural question shall be decided by the Speaker.

(2) The decisions made in paragraph (1) shall be based on the Constitution of Kenya, statute law and the usages, forms, precedents, customs, procedures, traditions and practices of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya.

Interpretation

2. (1) In these Standing Orders—

(a) unless the context otherwise requires—

“Allotted Day” means a day set aside for the consideration in Committee of Supply of proposals in respect of the Annual and Supplementary Estimates, as provided by Part XXIV of these Standing Orders;

“Broadcast” includes the live transmission of the proceedings of the House by radio, television or webcast;

“Cabinet Secretary” means a person appointed as a Cabinet Secretary under Article 152(2) of the Constitution;

“Clerk” means the Clerk of the Assembly, or, if the Clerk is absent, or if the office is vacant, such other person as is for the time being performing the duties of the Clerk;

“Leave of the House” means there being no objection by any Member, either with the sympathy of the Speaker or with the support of at least five other Members;

“Leader of the Majority Party” means the person who is the leader in the National Assembly of the largest party or coalition of parties under Standing Order 19 (*Leader of Majority Party and Deputy Leader of Majority Party*);

“Leader of the Minority Party” means the person who is the leader in the National Assembly of the second largest party or coalition of parties under Standing Order 20 (*Leader of Minority Party and Deputy Leader of Minority Party*);

“Majority Party” means the largest party or coalition of parties in the National Assembly;

“Majority Whip” means the Member designated as the Majority Whip by the Leader of the Majority Party;

“Member” means a member of the National Assembly;

“Minority Party” means the second largest party or coalition of parties in the National Assembly;

“Minority Whip” means the Member designated as the Minority Whip by the Leader of the Minority Party;

“Notice Paper” means the official schedule of business intended to be transacted by the Assembly during a particular week, published and circulated by the Clerk by order of the House Business Committee under Standing Order 38 (*Order Paper to be prepared and circulated*);

“Order Paper” means the paper showing the business to be placed before or taken by the House on a particular day, published and circulated by the Clerk under Standing Order 38 (*Order Paper to be prepared and circulated*);

“Paper” means any printed or electronic material laid on the Table of the House or a

committee of the House pursuant to any law or these Standing Orders or any other material as the Speaker may determine;

“Parliamentary Party” means a party or a coalition of parties consisting of not less than five percent of the membership of the National Assembly;

“Party Whip” means a Member designated by a parliamentary party as its party whip for the purposes of the transaction of the business in the House and includes the Majority Whip and the Minority Whip;

“Precincts of Parliament” includes the Chamber of the National Assembly and of the Senate, every part of the buildings in which the Chambers are situated, the offices of Parliament, the galleries and places provided for the use and accommodation of Members of Parliament, members of the public and representatives of the Press and any forecourt, yard, garden, enclosure or open space, appurtenant thereto and used or provided for the purposes of Parliament;

“President” means the President of the Republic of Kenya and includes the Deputy-President when acting as President and any other person who for the time being performs the functions of the President

pursuant to Article 146(2) of the Constitution;

“Private Bill” means any Bill, which is intended to affect or benefit some particular person, association or corporate body;

“Public Bill” means a Bill which is intended to affect the public generally, or a section of the public;

“Recess” means a period during which the House stands adjourned to a day other than the next normal sitting day;

“Session” means the sittings of the House commencing when it first meets after a General Election or on a day provided for in Standing Order 27 (*Regular Sessions of the House*) and terminating when the National Assembly adjourns at the end of a calendar year or at the expiry of the term of Parliament;

“Sitting” means a period during which the House is sitting continuously without adjournment and includes any period during which the House is in Committee; but two or more periods of sitting within the normal period of one sitting, or within an equivalent period, shall not rank as more than one sitting;

“Sitting day” means any day on which the Assembly sits;

(b) reference to the Chairperson of Committees includes the Speaker when presiding over a Committee of the whole House or any other Member for the time being so presiding;

(c) reference to the Speaker includes the Deputy Speaker or any other Member when presiding over the Assembly pursuant to Article 107 of the Constitution.

(2) In these Standing Orders, whenever a document is required to be provided or made available to Members, the document shall be considered to have been so provided or made available if placed in the Members’ pigeon holes or in such other manner as the Speaker may direct.

The Mace

2A. The Mace of the House embodies the authority of the Speaker and the House and shall be kept in safe custody by the Serjeant-at-Arms.

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

Proceedings on assembly of a new House

3. (1) On the first sitting of a new House pursuant to the President's notification under Article 126(2) of the Constitution, the Clerk shall—
 - (a) read the notification of the President as published in the *Gazette*;
 - (b) lay a list of the names of the persons elected as Members on the Table of the House; and
 - (c) administer the Oath or Affirmation of Office provided for in the Third Schedule to the Constitution to all members present in the House in the order set out in paragraph (2).
- (2) The Clerk shall administer the Oath or Affirmation of Office to Members in alphabetical order using the following order of precedence—
 - (a) Members with the longest cumulative period of service in the Assembly;
 - (b) Members with the longest cumulative period of service in the National Assembly, East African Legislative Assembly and the Senate;

(c) Members with the longest cumulative period of service in the Senate;

(d) all other Members.

(3) Pursuant to the provisions of Article 74 of the Constitution, no person shall assume or perform any functions of the office of a Member before taking and subscribing to the Oath or Affirmation of Office provided for under paragraph (1).

(4) When the Clerk is administering the Oath or Affirmation of Office to Members and before the Clerk has administered the Oath or Affirmation of Office to the Speaker, any question arising in the House shall be determined by the Clerk who shall, during that period, exercise the powers of the Speaker.

(5) At any other time, the Oath or Affirmation of Office shall be administered by the Speaker immediately after prayers.

(6) When a Member first attends to take his or her seat after the first sitting of the House, the Member shall, before taking his or her seat, be escorted to the Table by two Members and be presented by them to the Speaker who shall then administer to the Member the Oath or Affirmation of Office.

(7) Notwithstanding Standing Order 30 (*Hours of Meeting*), on the day when the election of the Speaker is to be conducted after a general election, the sitting of the House shall commence at 9.00 am.

Vacancy in the Office of Speaker

4. (1) A Speaker shall be elected when the House first meets after a General Election and before the House proceeds with the dispatch of any other business, except the administration of the Oath or Affirmation of Office to Members present.

(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.

Nomination of candidates

5. (1) Upon the President notifying the place and date for the first sitting of a new Assembly pursuant to Article 126(2) of the Constitution, the Clerk shall by notice in the Gazette notify that fact and invite interested persons to submit their

nomination papers for election to the office of Speaker.

(2) The names of candidates for election to the office of Speaker shall be entered upon nomination papers obtained from the Clerk and handed back to the Clerk, at least forty-eight hours before the time appointed at which the House is to meet to elect a Speaker.

(3) The nomination papers of a candidate shall be accompanied by the names and signatures of twenty Members who support the candidate and a declaration by them that the candidate is qualified to be elected as a Member of Parliament under Article 99 of the Constitution and is willing to serve as Speaker of the National Assembly.

(4) The Clerk shall maintain a register in which shall be shown the date and time when each candidate's nomination papers were received and shall ascertain that every such candidate for election to the office of Speaker is qualified to be elected as such under Article 106 of the Constitution.

(5) Immediately upon the close of the nomination period provided for in paragraph (2), the Clerk shall—

- (a) publicize and make available to all Members, a list showing all qualified candidates; and
- (b) make available to all Members, copies of the curriculum vitae of the qualified candidates.

(6) The Clerk shall, at least two hours before the meeting of the Assembly, prepare ballot papers upon which shall be shown the names of all candidates validly nominated under paragraph (5) of this Standing Order.

Secret ballot

6. (1) The election of the Speaker shall be by secret ballot.

(2) The Clerk shall, at the commencement of each ballot, cause the ballot box, empty and unlocked, to be displayed to the House and shall, in the presence of the House, lock the box, which shall thereafter be kept in the full view of the House until the conclusion of the ballot.

(3) The Clerk shall issue not more than one ballot paper to each Member who comes to the Table to obtain it and each Member who wishes to vote shall proceed to a booth or designated area provided by the Clerk for that purpose and located next to and within reasonable distance of the ballot box and shall, while there, mark the ballot

paper by placing a mark in the space opposite the name of the candidate for whom the Member wishes to vote, fold the marked ballot paper before leaving the booth or area and place the folded ballot paper in the ballot box.

(4) A Member who, before the conclusion of a ballot has marked a paper in error may, by returning it to the Clerk, obtain another in its place and the Clerk shall immediately cancel and destroy the paper so returned.

(5) The Clerk shall make such arrangements as may be necessary to enable any Member with disability to vote.

(6) When it appears to the Clerk that all Members who are present and who wish to vote have placed their ballot papers in the ballot box, the Clerk shall unlock the box, examine the ballot papers, and having rejected those unmarked or spoilt, report the result of the ballot; and no Member who has not already recorded his or her vote shall be entitled to do so after the Clerk has unlocked the ballot box.

(7) A ballot paper is spoilt, if in the Clerk's opinion, it does not identify the candidate purported to be selected by the Member voting.

Election threshold

7. (1) A person shall not be elected as Speaker, unless supported in a ballot by the votes of two-thirds of all Members.

(2) If no candidate is supported by the votes of two-thirds of all Members, the candidate or candidates who received the highest number of votes in the ballot referred to in paragraph (1) and the candidate or candidates who in that ballot received the next highest number of votes shall alone stand for election in a further ballot and the candidate who receives the highest number of votes in the further ballot shall be elected Speaker.

Withdrawal of candidate

8. A candidate may, by written notice to the Clerk, withdraw his or her name before a ballot is started, and in the event of such withdrawal, the Clerk shall cross-out the name of that candidate off any ballot papers issued for that or any subsequent ballot.

Equality of votes

9. If, in the further ballot referred to in Standing Order 7 (*Election threshold*), more than one candidate receives the highest number of votes, the ballot shall again be taken, and if there is an equality of the highest number of votes, a further ballot shall be taken until one candidate obtains more votes than the other or others.

Custody of ballot papers

10. Immediately the results are declared, all the ballot papers used in the election of a Speaker shall be packed and sealed in the presence of the House and kept in the custody of the Clerk for a period of six months and shall thereafter be destroyed.

Single duly nominated candidate

11. Despite the provisions of this Part, if there is only one candidate who has been duly nominated for election as Speaker at the expiry of the nomination period, that candidate shall be declared forthwith to have been elected Speaker without any ballot or vote being required.

Swearing-in of the Speaker

12. Immediately following the election of the Speaker, the Clerk shall administer the Oath or Affirmation of Office to the Speaker in the presence of the assembled House.

PART IIA—VACATION OF OFFICE OF SPEAKER AND DEPUTY SPEAKER

Resignation

- 12A. (1) A Speaker or Deputy Speaker who intends to resign from office shall submit a letter of resignation addressed to the House.

(2) Upon receipt of a letter of resignation, the Clerk shall, without delay—

- (a) in the case of resignation by the Speaker, inform the Deputy Speaker; or
- (b) in the case of resignation by the Deputy Speaker, inform the Speaker.

(3) The House shall be notified of a resignation under this Standing Order within seven days.

Removal from Office

12B. (1) A member of the National Assembly, supported by at least one-third of all the members, may move a motion for the removal of the Speaker or Deputy Speaker for—

- (a) serious violation of a provision of the Constitution or of any other law including a violation of Chapter Six;
- (b) gross misconduct, whether in the performance of the Speaker's or Deputy Speaker's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
- (d) incompetence; or
- (e) bankruptcy.

(2) Before giving Notice of the Motion under paragraph (1), the Member shall deliver to the Clerk a copy of the proposed Motion in writing—

- (a) stating the grounds and particulars upon which the proposed Motion is made;
- (b) signed by the Member;
- (c) signed in support by at least one-third of all the Members of the Assembly.

(3) Upon receipt of the motion by the Clerk, a Member shall not withdraw a signature appended to it.

(4) A Member shall give three days' notice of the motion under paragraph (1) within three days of the approval of the motion.

(5) The Clerk shall set out on the Order Paper on which the Motion is listed—

- (a) the grounds and particulars upon which the proposed Motion is made;
- (b) the name of the Member sponsoring the Motion; and
- (c) the names of the Members in support of the Motion.

(6) if the Motion is passed—

- (a) the Assembly shall appoint a select committee comprising eleven of its Members to investigate the matter; and

(b) the committee shall, within seven days, investigate and report to the Assembly whether it finds the allegations against the Speaker or Deputy Speaker to be substantiated.

(7) The Speaker or Deputy Speaker has the right to appear and be represented before the select committee during its investigations.

(8) If the select committee reports that it finds the allegations—

(a) unsubstantiated, no further proceedings shall be taken; or

(b) substantiated, the National Assembly shall—

(i) furnish the Speaker or Deputy Speaker with the report of the select Committee, together with any other evidence adduced and such notes or papers presented to the committee at least three days before the day scheduled for his or her appearance before the Assembly;

(ii) afford the Speaker or Deputy Speaker an opportunity to be heard;

(iii) consider the Report of the select committee; and

(iv) vote whether to approve the resolution requiring the removal from office of the Speaker or Deputy Speaker.

(9) If a resolution requiring the removal from office of a Speaker or Deputy Speaker is supported by at least two-thirds of the Members of the Assembly, the Speaker or Deputy Speaker shall cease to hold office.

PART III—DEPUTY SPEAKER AND CHAIRPERSON OF COMMITTEES

Election of Deputy Speaker

13. (1) As soon as practicable after the election of a Speaker following a General Election, a Deputy Speaker shall be elected.

(2) If the office of Deputy Speaker falls vacant at any time before the end of the term of Parliament, the House shall, as soon as practicable, elect a Member to that office.

(3) The procedure for electing a Deputy Speaker shall, with necessary modifications, be the same as that prescribed for the election of the Speaker.

Notification of opening of Parliament

14. (1) After taking and subscribing to the Oath or Affirmation of Office under Standing Order 12 (*Swearing-in of the Speaker*), the Speaker shall

notify the Members of the place, date and time of the opening of Parliament, which shall be not more than thirty days after the first sitting of the House.

(2) Following the notification by the Speaker under paragraph (1), the sitting of the House shall stand adjourned until the date and time of the opening of Parliament.

Chairperson of Committees of the whole House

15. (1) The Deputy Speaker shall be the Chairperson of Committees and shall preside over all Committees of the whole House.

(2) If the Deputy Speaker is absent, or if the Deputy Speaker considers that it is desirable that he or she should take part in any proceedings in Committee otherwise than as the person presiding, the Speaker shall take the Chair.

Chairperson's Panel

16. (1) There shall be a panel to be known as the Chairperson's Panel which shall comprise four Members to be known, respectively, as the First, Second, Third and Fourth Chairperson of Committees and who shall be entitled to exercise all the powers vested in the Chairperson of Committees.

(2) As soon as practicable, after the election of the Deputy Speaker following a general election, the Speaker shall, in consultation with leaders of parliamentary parties, submit a list of four Members for consideration by the House Business Committee.

(3) The House Business Committee shall, within seven days of receipt of the names of the nominees, table the list in the House and give notice of motion for approval.

(4) Whenever a Motion for approval under paragraph (3) is moved in the House, no objection against the proposed membership on the Chairperson's Panel of any particular Member shall be permitted and objections, if any, shall be formulated and considered against the proposed membership as a whole.

(5) In nominating the Members of the Chairperson's Panel, the Speaker and the House Business Committee shall have regard to the relative party majorities in the House and shall ensure, so far as shall be practicable, that at least one member of the Panel is from either gender.

Discharge of a Member from Chairperson's Panel

17. (1) The Speaker may, in writing, to the House Business Committee give notice that a member has been discharged from the Panel.

(2) Within seven days of receipt by the House Business Committee of a notice under paragraph (1), the House Business Committee shall consider the notice and give Notice of Motion to replace the Member.

Presiding in the House

18. (1) The Speaker shall preside at any sitting of the House but in absence of the Speaker, the Deputy Speaker shall preside and in absence of the Speaker and the Deputy Speaker, a member elected by the House for that purpose pursuant to Article 107 of the Constitution shall preside.

(2) The approval of the First, Second, Third and Fourth Chairperson of Committees under Standing Orders 16 (*Chairperson's Panel*) shall be deemed to constitute an election for purposes of paragraph (1) and either the First, Second, Third or Fourth Chairperson of Committees may preside over the House in the absence of the Speaker and the Deputy Speaker.

PART IV—THE LEADER OF THE MAJORITY PARTY AND THE LEADER OF THE MINORITY PARTY

Leader of the Majority Party and Deputy Leader of the Majority Party

19. (1) The largest party or coalition of parties in the National Assembly shall elect—

- (a) a member of the National Assembly belonging to the party or coalition of parties to be the Leader of the Majority Party;
 - (b) a member of the National Assembly belonging to the party or coalition of parties to be the Deputy Leader of the Majority Party.
- (2) In electing members under paragraph (1), the largest party or coalition of parties in the National Assembly shall take into account—
- (a) any existing coalition agreement entered into pursuant to the Political Parties Act;
 - (b) the need for gender balance.
- (3) A member elected under paragraph (2) may be removed by a majority of votes of all members of the largest party or coalition of parties in the National Assembly.
- (4) The whip of the largest party or coalition of parties in the National Assembly shall forthwith, upon a decision being made under this Standing Order, communicate to the Speaker, in writing the decision together with the minutes of the meeting at which the decision was made.

Leader of the Minority Party and Deputy Leader of the Minority Party

20. (1) The Minority party or coalition of parties in the National Assembly shall elect—

- (a) a member of the National Assembly belonging to the party or coalition of parties to be the Leader of the Minority Party;
- (b) a member of the National Assembly belonging to the party or coalition of parties to be the Deputy Leader of the Minority Party.

(2) In electing members under paragraph (1), the minority party or coalition of parties in the National Assembly shall take into account—

- (a) any existing coalition agreement entered into pursuant to the Political Parties Act;
- (b) the need for gender balance.

(3) A member elected under paragraph (2) may be removed by a majority of votes of all members of the minority party or coalition of parties in the National Assembly.

(4) The whip of the minority party or coalition of parties in the National Assembly shall forthwith,

upon a decision being made under this Standing Order, communicate to the Speaker, in writing the decision together with the minutes of the meeting at which the decision was made.

**PART V—ADDRESS BY PRESIDENT, VISITING
DIGNITARY OR OTHER PERSONS**

President's address on opening of new Parliament

21. (1) The President shall address the opening of each newly elected Parliament.

(2) At the conclusion of the President's address, the sitting shall stand suspended or adjourned as the Speaker may direct until such time or to such day as may be specified by the Speaker.

President's address on special sittings

22. (1) The President shall address a special sitting of Parliament once every year and may address Parliament at any other time.

(2) The Speaker shall notify the Members of the place, date and time of a sitting under paragraph (1).

(3) Whenever the Speaker has been informed that the President will address a special sitting of Parliament on a specified day and time, then on that day, no Motion for the adjournment of the House shall be made before the time for which the President's arrival has been notified.

President entering or leaving the Chamber

23. Members shall be called to order and stand in silence whenever the President enters or leaves the Chamber.

President's address to Parliament

24. (1) The President may be accompanied in the Chamber by an *Aide-de-Camp*.

(2) Whenever the President addresses Parliament, the Speaker of the National Assembly shall take the seat on the right of the President and the Speaker of the Senate shall take the seat on the left of the President.

(3) At any sitting held under this Standing Order, the Speaker of the National Assembly shall preside and shall be assisted by the Speaker of the Senate.

(4) When delivering an address to the House, the President shall be heard in silence and the address shall not be followed by any comment or question.

(5) Whenever the President delivers an Address, a Member may as soon as practicable thereafter, lay the Address on the Table of the House following the reading of such Address.

(6) A Member may give a notice of Motion that "*The Thanks of the House be recorded for the exposition of public policy contained in the Address of the President delivered on....;*" but

debate on the Motion shall not exceed four sitting days.

Visiting dignitary

25. (1) The Speaker may, in consultation with the Leader of the Majority Party and the Leader of the Minority Party, allow a visiting Head of State or other such visiting dignitary, to address the Assembly, and may, in consultation with the Speaker of the Senate arrange for a joint sitting of Parliament for purposes of an address by such visiting Head of State or such other visiting dignitary.

(2) Standing Order 23 (*President entering or leaving Chamber*) and paragraphs (1), (3) and (4) of Standing Order 24 (*President's address to Parliament*) shall, with necessary modifications, apply to visiting Heads of State and such other dignitaries.

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

25A. The Speaker may designate a suitable place in the Chamber or at the bar of the House for—

- (a) the Cabinet Secretary responsible for finance to make a public pronouncement of the budget policy highlights and revenue raising measures for the national government as contemplated

under the Public Finance Management Act;

- (b) other persons to make submissions or presentations before the House.

PART VI—CALENDAR, SITTINGS AND ADJOURNMENTS OF THE HOUSE

Location of the first sitting of a new House

- 26. Whenever a new House is elected, the President, by notice in the Gazette, shall appoint the place and date for the first sitting of the new House, which shall be not more than thirty days after the election.

Regular Sessions of the House

- 27. (1) Except for the Session commencing immediately after a general election, the regular Sessions of the House shall commence on the second Tuesday of February and terminate on the first Thursday of December.
- (2) Despite paragraph (1), the House may, by resolution, alter the dates specified under paragraph (1) in respect of a particular Session.
- (3) Subject to paragraph (1), the House shall continue to be in session and may adjourn for such number of days as it may determine in its calendar.

(4) Despite paragraphs (1), (2) and (3), a period of three months shall not intervene between the last sitting of the Assembly in one Session and the first sitting thereof in the next Session.

Calendar of the Assembly

28. (1) The House Business Committee shall, with approval of the House, determine the Calendar of the House.

(2) The Calendar of the House once approved shall be published in the *gazette*, Parliamentary Website and at least two newspapers of national circulation.

(3) On a day when the Assembly is scheduled to adjourn to a day other than the next normal sitting day in accordance with the parliamentary Calendar, the Speaker shall notify Members of the same, and at the appointed time, the Assembly shall adjourn without question put.

(4) Despite paragraph (2) the Assembly may, by resolution, alter its Calendar or the adjournment date.

Special sittings of the House

29. (1) Whenever during a Session the House stands adjourned, whether or not a day has been appointed for the next meeting, the Speaker may, on the request of the Leader of the Majority Party

or the Leader of the Minority Party, appoint a day for a special sitting of the House.

(2) The Speaker may allow a request under paragraph (1) if the Speaker is satisfied that the business proposed to be transacted relates to the matters specified under Standing Order 61 (*Definition of Special Motion*) or other urgent and exceptional business as the Speaker may allow.

(3) The Speaker shall, by notice in the *Gazette*, notify the Members of the place, date and time appointed for the special sitting of the House.

(4) Despite paragraph (1), where the proposed business to be transacted by the House requires the action of the Senate, the Speaker of the National Assembly shall, in writing, notify the Speaker of the Senate of the date appointed for the special sitting.

(5) Whenever the House meets for a special sitting under paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the only business before the House during the special sitting, following which the House shall stand adjourned until the day appointed in the parliamentary calendar.

Hours of meeting

30. (1) Unless the Speaker, for the convenience of the House otherwise directs, the House shall meet at 9.30 a.m. on Wednesday and at 2.30 p.m. on Tuesday, Wednesday, and Thursday, but more than one sitting may be directed during the same day.

(2) Unless for the convenience of the House the Speaker or the Chairperson (as the case may be) directs earlier or later interruption of business, at 7.00 p.m. or (if it is an Allotted Day) at 7.30 p.m., on the occasion of an afternoon sitting and at 1.00 p.m. on the occasion of a morning sitting, the Speaker or the Chairperson of Committees shall interrupt the business then under consideration and if the House is in Committee the Chairperson shall leave the Chair and report progress and ask leave to sit again.

(3) Notwithstanding paragraphs (1) and (2), the House may resolve—

- (a) to extend its sitting time; or
- (b) to meet at any other time on a sitting day; or
- (c) to meet on any other day, in order to transact business.

(4) A Motion under paragraph (3)(a) shall be moved at least thirty minutes before the time appointed for adjournment.

(5) If at the time appointed for the interruption of business, a division is in progress, or a question is being put from the Chair and a division results immediately thereon, such interruption shall be deferred until after the declaration of the numbers and the result of the division.

(6) Upon the conclusion of all proceedings under paragraphs (2), (3) or (4) of this Standing Order, or upon the earlier completion or deferment of all business standing upon the Order Paper for the sitting, the Speaker shall adjourn the House without question put.

Adjournment of the House

31. (1) A Member may at any time, for reasons stated, seek leave to move "That, this House do now adjourn."

(2) If the Speaker is of the opinion that such Motion for adjournment of the House is frivolous, vexatious, or an abuse of the proceedings of the House, the Speaker may forthwith put the question thereon or decline to propose it.

(3) The debate on a Motion under this Standing Order shall be confined to the matter of the Motion.

32. (Deleted).

Adjournment on definite matter of urgent national importance

33. (1) Any Member may at any time rise in his or her place and seek leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent national importance.

(2) A Member who wishes to seek leave to move the adjournment of the House shall, at least two hours before the commencement of the sitting, hand to the Speaker a written notification of the matter but the Speaker shall refuse to allow the claim, unless the Speaker is satisfied that the matter is definite, urgent and of national importance and may properly be raised on a Motion for adjournment of the House.

(3) If the Speaker is satisfied in terms of paragraph (2) and not less than twenty other Members rise in their places in support, the Speaker shall nominate a time on the same day at which such Motion may be moved.

(4) No Member speaking on a matter under this Standing Order shall speak for more than five

minutes without the leave of the House, except that the Mover may speak for ten minutes.

PART VII—QUORUM OF THE HOUSE

Quorum at commencement of the House

34. (1) A quorum of the House or of a Committee of the whole House shall be fifty Members.

(2) If there is not a quorum present when the Chair is taken, at the time appointed for a meeting of the House, immediately after the saying of the prayer, the Speaker shall order the bell to be rung for ten minutes, and if no quorum is present at the expiration of the ten minutes, the Speaker may direct that the bell be rung for a further five minutes and if there is still no quorum present, the Speaker shall adjourn the House forthwith to the next sitting.

Quorum during the proceedings of the House

35. (1) If at any time after the Chair is taken, or when the House is in Committee, a Member objects that there is not a quorum present, the Speaker or the Chairperson shall count the Members in the House or the Committee as the case may be.

(2) If on the count under paragraph (1) a quorum does not appear to be present, the Speaker or the Chairperson shall cause the division bell to be rung

as on a division, and if no quorum is present at the expiration of the ten minutes—

(a) if the Speaker is in the Chair, the Speaker shall adjourn the House until the next sitting without question put;

(b) if the House is in Committee, the Chairperson shall leave the Chair and report the fact to the Speaker, who shall adjourn the House until the next sitting without question put.

(3) Whenever the Speaker or the Chairperson, as the case may be, is engaged in counting the House or the Committee respectively, the doors shall remain unlocked but no Member shall be allowed to leave the Chamber, except a party whip who may be permitted to leave the Chamber to seek the Members required to raise a quorum.

Quorum during voting or division

36. If, from the number of Members taking part in an electronic voting or roll call division, it appears that the Members do not themselves constitute a quorum, the vote or division shall be invalid and the business then under consideration shall stand over until the next sitting and the Speaker shall proceed as if his or her attention had been drawn to the absence of a quorum, but if after so proceeding a quorum is then present, the next business shall be entered upon.

Decorum when quorum not present

37. When the Quorum bell is ringing, Members shall maintain order in the House.

PART VIII—ORDER OF BUSINESS

Order Paper to be prepared and circulated

38. (1) The Order Paper shall be prepared by the Clerk, showing the business proposed to be transacted to be placed before or taken by the House and the order in which it is to be taken, including a notice paper showing the business for each sitting day of the week, together with such other information as the Speaker may from time to time direct.

(2) The Order Paper shall be published on the parliamentary website and shall be made available to Members, at least twelve hours before the House meets, but a supplementary Order Paper shall be made available at least one hour before the House meets.

Weekly programmes of the business of the National Assembly

39. The Clerk shall prepare and publish on the parliamentary website, weekly programmes showing the business of the House and the schedule of sittings of the various committees, and shall circulate such programmes to Members,

State Departments, and the media not later than the Friday of the week preceding such business.

Sequence of proceedings

40. (1) Each day after Prayers have been said and the House has been called to order, the Business of the House shall be proceeded with in the following sequence—

- (i) Administration of Oath;
- (ii) Communication from the Chair;
- (iii) Messages;
- (iv) Petitions;
- (v) Papers;
- (vi) Notices of Motion;
- (vii) Questions and Statements;
- (viii) Motions and Bills.

(2) Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the House, direct.

(3) On Wednesday morning a Bill or a motion not sponsored by the Majority or Minority Party or by a Committee shall have precedence over all other business in such order as the House Business Committee shall ballot.

(4) The Speaker shall direct the Clerk to read the Orders of the Day without question put.

PART IX—MESSAGES

Messages to and from the Senate

41. (1) A message from the Assembly to the Senate shall be in writing and shall be signed by the Speaker.

(2) The Clerk of the Assembly shall transmit a message from the House to the Clerk of the Senate and shall receive messages from the Senate.

(3) The Clerk shall deliver to the Speaker a message received from the Senate under paragraph (2) at the first available opportunity after receipt and in any event not later than the next day not being a Saturday, Sunday or public holiday.

(4) If a message is received from the Senate, at a time when the House is in session, the Speaker shall report the message to the House at the first convenient opportunity after its receipt and in any event not later than the next sitting day.

(5) If a message is received from the Senate, at a time when the House is not in session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the

message to the House on the day the House next sits.

(6) When the Speaker reports a message from the Senate under paragraph (4) or (5), the message shall be deemed to have been laid before the House and the Speaker may either—

- (a) direct that the message be dealt with forthwith; or
- (b) appoint a day for the consideration of the message; or
- (c) refer the message to the relevant Committee of the House for consideration.

Messages from the President

42. (1) The Speaker shall read to the House any message from the President delivered to the Speaker for communication to the House.

(2) If a message is received from the President, at a time when the House is not in session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the message to the House on the day the House next sits.

(3) When a message from the President is read, the message shall be deemed to have been laid before the House and the Speaker may either—

- (a) direct that the message be dealt with forthwith; or
- (b) appoint a day for the consideration of the message; or
- (c) refer the message to the relevant Committee of the House for consideration.

(4) Paragraphs (1), (2) and (3) shall apply, with necessary modifications, to a message delivered to the Speaker by a Cabinet Secretary for communication to the House pursuant to any written law providing for conveyance of messages from the Cabinet.

PART IXA—QUESTIONS

Notice of Question

42A. (1) Pursuant to Standing Order 216(5)(j), a Member proposing to ask a Question in the House shall give notice to the Clerk.

(2) The Member shall deliver a signed copy of the proposed Question to the Clerk for submission to the Speaker for approval.

(3) Where the Speaker approves a Question and determines the Cabinet Secretary responsible for the matters to which it relates, the Clerk shall, at an appropriate time, publish the Question in the Order paper.

(4) In scheduling a Question in the Order Paper, the Clerk shall consider the urgency of the Question as determined by the Speaker.

(5) A Member shall ask his or her Question on the day it is scheduled in the Order Paper and the Leader of the Majority Party shall, at an appointed date, inform the House of the date and time when a Cabinet Secretary shall be required to appear before a Committee to reply to a Question, subject to paragraph (6).

(6) In determining the date and time when a Cabinet Secretary shall be required to appear before a Committee to reply to a Question, the Leader of the Majority Party shall—

- (a) consider the urgency of the Question as determined by the Speaker; and
- (b) consult with the Chairperson of the Committee.

General rules on Questions

42B. (1) These rules apply to Questions raised in the House and Questions referred to Committees for reply.

(2) Except as the Speaker may otherwise allow, a Member may not ask a Question which—

- (a) is in effect a speech;
- (b) is lengthy;
- (c) is limited to give information;
- (d) is framed so as to suggest its own reply or to convey a particular point of view;
- (e) includes extracts from newspapers or quotations from speeches;
- (f) contains any argument, inference, opinion, imputation or ironical or offensive expression or epithet;
- (g) seeks an expression of opinion;
- (h) repeats in substance a matter already addressed by a Committee of the House or in the course of debate in the House during the same Session;
- (i) refers to more than one subject;
- (j) includes the name of a person or a statement not strictly necessary to render the Question intelligible;
- (k) contains an allegation which the Member is not prepared to substantiate;
- (l) implies an allegation of a personal nature or which reflects upon the conduct of a

person whose conduct can only be challenged through substantive Motion or upon the conduct of any other person otherwise than in that person's official or public capacity;

- (m) relates to a matter which is *sub judice* or which by any written law is secret pursuant to Standing Order 89 (*Matters sub judice or secret*);
- (n) falls within the functions and powers of county governments as contemplated under Part II of the Fourth Schedule to the Constitution;
- (o) seeks a reply that is readily available in ordinary works of reference or official publications;
- (p) refers discourteously to a friendly country, a Head of State or Government or the representative in Kenya of a friendly country; or
- (q) refers to a matter under consideration by the House or a Committee.

(3) A Member shall take responsibility for accuracy of the facts upon which a Question is based.

(4) A Member may, with leave of the Speaker, ask a supplementary question to a Question raised in the House before it is referred to a Committee for reply.

(5) Where the Member scheduled to raise a Question in the House is absent without the Speaker's permission, the Question shall be dropped and no further proceedings shall be allowed on the Question during the same session.

(6) The Speaker may defer a Question to a different time or day from its scheduled time and day.

Manner of disposing Questions in a Committee

42C. (1) A Cabinet Secretary shall provide physical and electronic copies of the reply to a Question at least a day before appearing before a Committee.

(2) Subject to Standing Order 42A (*Notice of Question*), a Committee shall dispose of a Question in the sequence it appears in its Schedule of Questions or as its Chairperson may direct.

(3) The Chairperson may allow a Member to ask a supplementary question which relates to a Question referred to a Committee.

(4) Where a Chairperson allows Members to ask supplementary questions, the Chairperson shall give first priority to the Member who asked the Question referred to a Committee for reply.

(5) Where the Member who raised a Question referred to the Committee is absent without the Chairperson's permission, the Question shall be dropped and no further proceedings shall be allowed on the Question during the same session.

(6) The Chairperson of a Committee may—

- (a) defer a Question to a different time or day from its scheduled time and day; or
- (b) direct a Cabinet Secretary to provide additional information or a further reply to a Question or supplementary questions raised in the Committee.

Questions for written reply

42D. Where a Member prefers a written reply to his or her Question—

- (a) the Speaker shall direct that a written reply be provided in respect of the Question; and
- (b) the Clerk shall forward the Question to the relevant Cabinet Secretary and, upon receipt, provide the written reply to the Member.

Timeline for reply

42E. (1) Subject to paragraph (2), a Cabinet Secretary shall reply to a Question within thirty days of referral of a Question to a Committee.

(2) Where the Speaker determines a Question to be urgent, a Cabinet Secretary shall reply to the Question within three days of referral of the Question to a Committee.

Report on Questions

42F. The Chairperson of a Committee shall submit a progress report to the House on Questions—

- (a) referred to the Committee;
- (b) replied to;
- (c) which the Committee has directed a Cabinet Secretary to provide additional information or further reply; and
- (d) pending before the Committee.

PART X—STATEMENTS

Members' general statements

43. (1) Notwithstanding Standing Order 30 (*Hours of Meeting*), the Speaker shall interrupt the business of the House every Tuesday at 6.30 pm to facilitate Members to make general statements of topical concern.

(2) A Member who wishes to seek leave to raise a matter under this Standing Order shall, before 3.00 pm on the day the statement is to be made, hand to the Speaker a written notification of the matter, but the Speaker shall refuse to allow the

request unless satisfied that the matter may properly be discussed in the House.

(3) No Member making a statement under this Standing Order shall speak for more than three minutes, unless with permission of the Speaker.

Statement Hour

44. (1) Notwithstanding Standing Order 40 (*Sequence of Proceedings*), there shall be time to be designated Statements Hour, every Thursday, commencing not later than 3.00 pm.

(2) During the Statements Hour—

- (a) a Member of the House Business Committee designated by the Committee for that purpose shall, every Thursday or on the last sitting day, for not more than ten minutes, present and lay on the Table, a statement informing the House of the business coming before the House in the following week;
- (b) the Leader of the Majority Party, or the Leader of the Minority Party as the case may be, or their designees may make a statement relating to their responsibilities in the House or the activities of a Committee;

appropriate amendment to the Constitution or the Act of Parliament;

- (c) is too long;
- (d) is framed in terms which are inconsistent with the dignity of the House;
- (e) contains or implies allegations which the Speaker is not satisfied that the Mover can substantiate; or
- (f) calls for the commitment of public funds for which no provision is made in the Annual Estimates as adopted by the National Assembly,

the Speaker may direct either that, the Motion is inadmissible, or that notice of it cannot be given without such alteration as the Speaker may approve or that the motion be referred to the relevant committee of the Assembly, pursuant to Article 114(2) of the Constitution.

(4) A Member giving notice of a Motion approved by the Speaker shall state its terms to the House and whether the original copy received by the Clerk has been certified by a party leader or party whip for sponsorship by the Member's party.

(4A) A notice of Motion under Part XIV (*Procedure for removal from State Office*) shall be given in the House within three sitting days following approval by the Speaker, and, if not, such motion

shall be deemed to have been withdrawn and shall not be moved again in the same terms in the same session, except with the leave of the Speaker.

(5) Unless the House resolves otherwise—

- (a) a Motion sponsored by a party shall have precedence over all other Motions on such day as the House Business Committee, in consultation with the Speaker, may determine, but where a party has sponsored two or more motions, the Motion shall be considered in such order as sponsoring party may determine;
- (b) notice of an approved Motion other than those under sub-paragraph (a) may be given to Members by means of a list to be published in such manner as the Speaker may from time to time direct and the Member giving such notice shall state its terms to the House when the Motion has acquired precedence in accordance with Standing Order 50 (*Time for moving Motions*), but at least one day before the Motion appears on the Order Paper.

Amendment of Notice of Motion

48. The Speaker may permit a Member to move in an amended form a Motion of which notice has been given if in the opinion of the Speaker the amendment does not materially alter any

- (c) A Member may request for a statement from the Committee chairperson relating to matters under the mandate of the Committee and the Speaker may either appoint a day for the statement or direct that the statement be issued on the same day.

PART XI—APPROVAL OF PUBLIC APPOINTMENTS

Committal to committees

45. (1) Upon receipt of a notification of nomination for appointment to a State Office or such other office as is under the Constitution or under any other legislation required to be approved by the House, the nomination shall stand committed to the relevant Departmental Committee of the House for consideration.
- (2) Despite paragraph (1), appointments under Article 152(2) of the Constitution shall stand committed to the Committee on Appointments.
- (3) Before holding an approval hearing, a Committee to which proposed appointments have been referred shall notify the candidate and the public of the time and place for the holding of the approval hearing at least seven days prior to the hearing.
- (4) The Committee shall conduct a hearing on the proposed appointment and shall, unless otherwise

provided in law; table its report in the House within fourteen days of the date on which the notification was received under paragraph (1).

PART XII—MOTIONS

Application

46. This Part shall apply to all Motions, including special Motions.

Notices of Motions

47. (1) Except as otherwise provided by these Standing Orders, notice shall be given by a Member of any Motion which the Member proposes to move.

(2) Before giving notice of Motion, the Member shall deliver to the Clerk a copy of the proposed Motion in writing and signed by the Member, and the Clerk shall submit the proposed Motion to the Speaker.

(3) If the Speaker is of the opinion that any proposed Motion -

- (a) is one which infringes, or the debate on which is likely to infringe, any of these Standing Orders;
- (b) is contrary to the Constitution or an Act of Parliament, without expressly proposing

House and in such other form as may be prescribed in the Committee Manual.

(2) The report of a select committee having been adopted by a majority of the Members, shall be signed by the Chairperson on behalf of the Committee.

(3) If the Chairperson is absent or is not readily available, the Vice-Chairperson shall sign the report under paragraph (1), and in the absence of both the Chairperson and the Vice-Chairperson, the committee shall nominate another Member to sign the report.

(4) A select committee shall adopt its report in a meeting attended by a majority of its Members.

(5) A report having been adopted by a majority of Members, a minority or dissenting report may be appended to the report by any Member(s) of the Committee.

(6) A report of a select committee including any minority report, together with the minutes of the proceedings of the committee, and with such note or record of any evidence by the committee as the committee may deem fit, shall be laid on the Table of the House by the Chairperson of the select committee, or the Vice-Chairperson or by a Member authorized by

the committee on its behalf within fourteen days of the conclusion of its proceedings.

(7) Within forty eight hours after the report has been laid on the Table of the House, the Clerk shall publish the report in the parliamentary website and circulate copies to Members.

Progress reports

200. (1) Unless a more regular interval is prescribed under any written law or these Standing Orders, each select committee shall submit half yearly progress reports to the Liaison Committee.

(2) The Liaison Committee shall, within twenty one days, compile the reports under paragraph (1) and submit a report to the House.

Exit Reports

200A. (1) A Committee which is unable to complete its work before the expiry of its term shall table an exit report to the Assembly detailing reasons for such inability.

(2) The report shall be made available to the succeeding Committee which may consider it in preparing its work plan.

Reports on House Resolutions

201. Within sixty days of a resolution of the House or adoption of a report of a select committee, the

principle embodied in the Motion of which notice has been given.

Certain Motions not to be moved

49. (1) No Motion may be moved which is the same in substance as any question which has been resolved (either in the affirmative or in the negative) during the preceding six months in the same Session.

(2) Despite paragraph (1)—

(a) a Motion to rescind the decision on such a question may be moved with the permission of the Speaker;

(b) a Motion to rescind the decision on a question on a Special Motion shall not be allowed.

Time for moving Motions

50. (1) The House Business Committee shall allot the time and sequence of the publication in the Order Paper of every Motion approved by the Speaker.

(2) Save for a Special Motion, a Member who has a Motion standing in his or her name may authorize, in writing, another Member to move that Motion in the Member's stead.

(3) Where no Member moves a Motion at the time specified by or under these Standing Orders, such

Motion shall not again be published in the Order Paper during the same Session except with the leave of the Speaker.

Motion withdrawn may be moved again

51. (1) A notice of Motion may be withdrawn by the Member who gave the notice, but notice of the same Motion may be given again either by the same or by any other Member.

(2) Despite paragraph (1), notice of a Special Motion may not be withdrawn, except with leave of the House.

Motions which may be moved without Notice

52. The following Motions may be moved without notice—

- (a) Motion by way of amendment to a question already proposed from the Chair;
- (b) Motion for the adjournment of the House or of a debate;
- (c) Motion that the House do dissolve itself into a Committee of the whole House;
- (d) Motion moved when the House is in Committee;
- (e) Motion for the suspension of a Member;

- (f) Motion made in accordance with the Standing Orders governing the procedure as to Bills;
- (g) Motion for the agreement of the House with a Committee of the whole House in a resolution reported, or for the re-committal thereof or for the postponement of the further consideration thereof;
- (h) Motion raising a question of privilege;
- (i) Motion for the orders of the House under these Standing Orders;
- (j) Motion made under Standing Order 256 (*Exemption of business from Standing Orders*);
- (k) Motion made for the limitation of a debate under Standing Order 97 (*Limitation of debate*);
- (l) Motion made for the postponement or discharge of, or giving precedence to an order of the day; and
- (m) Motion for the extension of sitting time of the House.

Manner of debating Motions

53. (1) When a Motion has been moved and if necessary seconded, the Speaker shall propose the question thereon in the same terms as the Motion, and debate may then take place upon that question.

(2) At the conclusion of the debate, the Speaker shall put the question.

(3) Despite paragraph (2), the Speaker may, on the request of a Member, defer the putting of the question to the following day in which case the Speaker shall thereupon nominate a time at which the question shall be put.

Amendments to Motions

54. (1) Unless otherwise provided in these Standing Orders, any amendment to a Motion which a Member wishes to propose in accordance with these Standing Orders may be moved and, if necessary seconded at any time after the question upon the Motion has been proposed and before it has been put.

(2) When every amendment under paragraph (1) has been disposed of, the Speaker shall either again propose the question upon the Motion or propose the question upon the Motion as amended as the case may require, and after any further debate which may arise thereon, shall put the question.

(3) Upon any amendment to leave out any of the words of the Motion, the question to be proposed shall be "That, the words proposed to be left out be left out."

(4) Upon any amendment to insert words in, or add words at the end of a Motion, the question to be proposed shall be "That, the words [of the amendment] be inserted" (or "added").

(5) Upon any amendment to leave out words and insert or add other words instead, a question shall first be proposed "That, the words proposed to be left out be left out of the question", and if that question is agreed to, the question shall then be proposed, "That, the words [of the amendment] be therein inserted" (or "added"), but if the first question is negatived, no further amendment may be proposed to the words which it has been decided shall not be left out.

(6) When two or more amendments are proposed to be moved to the same Motion, the Speaker shall call upon the movers in the order in which their amendments relate to the text of the Motion, or in cases of doubt, in such order as the Speaker shall decide.

(7) An amendment to leave out words and replace those words with other words shall take precedence before any amendment to leave out words without proposing to replace those words with other words.

(8) No amendment may be moved which relates to any words which it has been decided shall not be left out of a Motion.

(9) An amendment to an amendment may be moved and if necessary seconded at any time after the question upon the original amendment has been proposed and before it has been put.

(10) Paragraphs (3), (4), (5), (6), (7), (8) and (9) of this Standing Order shall apply to the debate of amendments to amendments with the substitution whenever appropriate of the words "original amendment" for the word "question".

(11) When every amendment to an amendment has been disposed of, the Speaker shall, either again propose the question upon the original amendment or propose the question upon the amendment, as amended as the case may require.

Amendments to be in writing

55. (1) The proposer of an amendment to a Motion shall, before moving it, hand the proposed amendments in writing, signed by the proposer, to the Clerk at least two hours before the order is read.

(2) Despite paragraph (1), the Speaker may, in exceptional circumstances, allow a Member to move an amendment to a Motion before the Assembly at any time during consideration of that Motion.

Amendments to be relevant to Motion

56. (1) Every amendment shall be relevant to the Motion which it seeks to amend and shall not raise any question which, in the opinion of the Speaker, should be raised by a substantive Motion after notice given.

(2) No amendment shall be permitted if in the opinion of the Speaker, it represents a direct negative of the question proposed.

Question proposed after Motion made

57. (1) The question on any Motion shall not be proposed unless it shall have been seconded and any Motion that is not seconded shall be deemed to have been withdrawn, and shall not be moved again in the same Session.

(2) Despite paragraph (1), a Motion made in Committee of the whole House shall not require to be seconded.

Motion in possession of the House

58. After the question has been proposed on a Motion, the Motion shall be deemed to be in the possession of the House, and such Motion shall not be withdrawn without the leave of the House.

Question as amended put

59. When a question has been amended it shall, when put, be put as amended.

When amendment proposed but not made

60. When any amendment has been proposed but no amendment has been made, the question when put shall be put as originally proposed.

PART XIII—SPECIAL MOTIONS

Definition of Special Motion

61. For purposes of this Part, a Special Motion is one—
- (a) that seeks a resolution of the House to approve an appointment or re-appointment in accordance with Part XI (*Approval of Public Appointments*); or
 - (b) moved pursuant to any of the following Articles of the Constitution—
 - (i) Article 58 (*extension of state of emergency*);
 - (ii) Article 102 (*extension of the term of Parliament when Kenya is at war*);
 - (iii) Article 111 (*amending or veto of a special Bill passed by the Senate*);
 - (iiia) Article 106 (*resolution for removal of Speaker or Deputy Speaker from office*);
 - (iv) Article 132 (*declaration of war*);
 - (v) Article 144 (*removal of President on Grounds of incapacity*);

- (vi) Article 145 (*impeachment of the President*);
- (vii) Article 149 (*vacancy in the office of the deputy president*);
- (viii) Article 150 (*removal of Deputy President*);
- (ix) Article 152 (*dismissal of a cabinet secretary*);
- (x) Article 188 (*alteration of the boundaries of a county*);
- (xi) Article 211 (*borrowing by national government*);
- (xii) Article 217 (*division of revenue*);
- (xiii) Article 225 (*approval of decision to stop the transfer of funds to a State organ or any other public entity*);
- (xiv) Article 240 (*deployment of National forces outside Kenya and foreign forces in Kenya*);
- (xv) Article 241 (*deployment of Defence Forces inside Kenya*);
- (xvi) Article 251 (*petition for removal of a Member of a Commission or a holder of an independent office*);
- (xvii) Article 261 (*enactment of consequential legislation*).

(2) Unless the Constitution, any written law or these Standing Orders specify a lesser or further period, a Special Motion shall be—

- (a) disposed of by the Speaker in accordance with Standing Order 53 (*Manner of debating motions*) within seven days of receipt of notice by a Member under paragraph (2); and,
- (b) disposed of by the House within fourteen calendar days upon the notice under Standing Order 47 (*Notices of Motions*), and if not, such motion shall be deemed to have been withdrawn and shall not be moved again in the same Session, except with the consent of the Speaker.

Instances where the Constitution requires a fixed majority

62. (1) In every instance where the Constitution lays down that a fixed number of Members is necessary to support the moving of, or to decide any question on a motion, any amendment motion to such motion shall not be passed unless supported by the fixed number of Members required to pass the original motion.

(2) Notwithstanding paragraph (1), whenever a Bill or a special Motion the passage of which requires a special majority in the Assembly fails to obtain the required majority and the vote

results in a majority of the "Ayes" but the "Noes" have not numbered at least one third of all the Members of the Assembly, the Speaker may direct that a further vote be taken on the particular question, and the further vote shall be taken within five sitting days from the day the first vote was taken.

(3) If the Speaker does not so direct any further vote, or if on such further vote the fixed majority is not obtained, the Speaker shall declare that the Motion is negatived.

PART XIV—PROCEDURE FOR REMOVAL FROM STATE OFFICE

Procedure for removal of President on grounds of incapacity

63. (1) Before giving notice of Motion under Article 144(1) of the Constitution, the Member shall deliver to the Clerk a copy of the proposed Motion in writing—

- (a) stating the grounds and particulars upon which the proposed Motion is made;
- (b) signed by the Member; and
- (c) signed in support by at least a quarter of all the Members.

(1A) A motion under this Standing Order shall have its subject matter indicated on every sheet.

(2) A Motion under paragraph (1) shall be disposed of—

- (a) by the Speaker within three days of receipt of notice by a Member under paragraph (1); and
- (b) by the House within seven days of a Member giving notice under Standing Order 47 (*Notices of Motions*), and if not, such motion shall be deemed to have been withdrawn and shall not be moved again in the same session, except with the leave of the Speaker.

(3) If the National Assembly is not then sitting, the Speaker shall summon the Assembly for a special sitting to dispose of the Motion.

(4) An Order Paper on which the Motion under paragraph (1) is listed shall set out—

- (a) the grounds and particulars upon which the proposal is made;
- (b) the name of the Member sponsoring the Motion; and
- (c) the names of the Members in support of the Motion.

(5) Upon receipt of the Motion by the Clerk any signature appended to the list as provided under paragraph (4) shall not be withdrawn.

(6) When the Motion has been passed by a majority of all members of the National Assembly, the Speaker shall inform the Chief Justice of that resolution within two days.

(7) Upon receipt of the report of the tribunal pursuant to Article 144(6) of the Constitution, the Speaker shall cause the report to be tabled before the National Assembly within seven days after receiving it and—

- (a) If the tribunal reports that the President is capable of performing the functions of the office, the Speaker of the National Assembly shall so announce in the National Assembly and no further proceedings shall be taken on the matter;
- (b) If the tribunal reports that the President is incapable of performing the functions of the office, the National Assembly shall, upon a motion by the Member who moved the motion for investigation of the President, vote on whether to ratify the report and if a majority of all the Members of the National Assembly vote in favour of ratifying the report, the President shall cease to hold office.

Procedure for removal of President by impeachment

64. (1) Before giving notice of Motion under Article 145(1) of the Constitution, a Member shall deliver

to the Clerk a copy of the proposed Motion in writing—

- (a) stating the grounds and particulars in terms of Article 145(1) of the Constitution upon which the proposed Motion is made;
- (b) signed by the Member; and
- (c) signed in support by at least a third of all the Members.

(1A) The grounds specified in a motion under this Standing Order shall be admissible if—

- (a) framed clearly to particularize and disclose a gross violation of the Constitution or other written law, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal;
- (b) stating with precision, the provisions of the Constitution or other written law that are alleged to have been grossly violated, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal; and

(c) accompanied by necessary evidence, including annexures or sworn testimonies in respect of the allegations.

(2) A Motion under paragraph (1) shall be disposed of—

(a) by the Speaker in accordance with Standing Order 47 (*Notices of Motions*) within three days of receipt of notice by a Member under paragraph (1); and,

(b) by the Assembly within seven days of a Member giving notice under Standing Order 47 (*Notices of Motions*) and if not, such Motion shall be deemed to have been withdrawn and shall not be moved again in the same Session, except with the leave of the Speaker.

(3) If the National Assembly is not then sitting, the Speaker shall summon the Assembly for a special sitting to dispose of the Motion.

(4) An Order Paper on which the Motion under paragraph (1) is listed shall set out—

(a) the grounds and particulars upon which the proposal is made;

(b) the name of the Member sponsoring the Motion; and

(c) the names of the Members in support of the Motion.

(5) Upon receipt of the Motion by the Clerk any signature appended to the list as provided under paragraph (4) shall not be withdrawn.

(6) When the Motion has been passed by two-thirds of all members of the National Assembly, the Speaker shall inform the Speaker of the Senate of that resolution within two days in terms of Article 145(2)(a) of the Constitution.

Procedure for removal of Deputy President

65. (1) Where a Member proposes the removal of the Deputy President on the grounds of physical or mental incapacity in terms of Article 150(1)(a) of the Constitution, Standing Order 63 (*Procedure for removal of President on grounds of incapacity*) shall, with necessary modifications, apply.

(2) Where a Member proposes to impeach the Deputy President in terms of Article 150(1)(b) of the Constitution, Standing Order 64 (*Procedure for removal of President by impeachment*) shall, with necessary modifications, apply.

Procedure for removal of Cabinet Secretary

66. (1) Before giving Notice of Motion under Article 152(6) of the Constitution, the Member shall deliver to the Clerk a copy of the proposed Motion in writing—
- (a) stating the grounds and particulars in terms of Article 152(6) of the Constitution upon which the proposed Motion is made;
 - (b) signed by the Member; and
 - (c) signed in support by at least one-quarter of all the Members of the Assembly.
- (2) The provisions of Standing Order 64 (*Procedure for removal of President by impeachment*) shall apply to a Motion under paragraph (1).
- (3) An Order Paper on which the Motion under paragraph (1) is listed shall set out—
- (a) the grounds and particulars upon which the proposed Motion is made;
 - (b) the name of the Member sponsoring the Motion; and
 - (c) the names of the Members in support of the Motion.
- (4) Upon receipt of the Motion by the Clerk any signature appended to the list as provided under paragraph (3) shall not be withdrawn.

(5) If the Motion is supported by at least one-third of the Members of the National Assembly—

(a) the Assembly shall, within seven days, appoint a select committee comprising eleven of its Members to investigate the matter; and

(b) the select committee shall, within ten days, report to the Assembly whether it finds the allegations against the Cabinet Secretary to be substantiated.

(6) The Cabinet Secretary has the right to appear and be represented before the select committee during its investigations.

(7) If the select committee reports that it finds the allegations—

(a) unsubstantiated, no further proceedings shall be taken; or

(b) substantiated, the National Assembly shall—

(i) avail the Cabinet Secretary with the report of the select Committee, together with any other evidence adduced and such notes or papers presented to the committee at least three days before the day scheduled for his or

her appearance before the Assembly;

- (ii) afford the Cabinet Secretary an opportunity to be heard; and
- (iii) consider the Report of the select committee and vote whether to approve the resolution requiring the Cabinet Secretary to be dismissed.

(8) If a resolution requiring the President to dismiss a Cabinet Secretary is supported by a majority of the Members of the National Assembly, the Speaker shall promptly deliver the resolution to the President.

Right to be heard

67. Whenever the Constitution, any written law or these Standing Orders—

- (a) require the National Assembly to consider a petition or a proposal for the removal of a person from office, the person shall be entitled to appear before the relevant Committee of the Assembly considering the matter and shall be entitled to legal representation;
- (b) require the National Assembly to hear a person on grounds of removal from office, or in such similar circumstances, the Assembly shall hear the person—

- (i) at the date and time to be determined by the Speaker;
- (ii) for a duration of not more two hours or such further time as the Speaker may, in each case determine; and
- (iii) in such other manner and order as the Speaker shall, in each case, determine.

Priority of Motion

68. A Motion for the removal of a person from office under this Part shall take precedence over all other business on the Order Paper for the day.

PART XV—VOTING AND DIVISIONS

Voting in the House

69. (1) Unless otherwise provided under the Constitution, a question arising in the House shall be decided by a majority of the Members in the House, present and voting.

(2) In ascertaining the results on a question under paragraph (1), the Speaker shall, in the first instance, collect the voices of the “Ayes” and the “Noes” and shall declare the results accordingly.

(3) On a question proposed for a decision in the House, the Speaker has no vote.

(4) In determining the number of Members of the House for the purpose of voting, the Speaker shall not be counted as a Member.

Electronic voting

70. (1) Unless the Speaker, for the convenience of the House otherwise directs, voting on a division in the House shall be by electronic voting.

(2) When the Speaker directs that an electronic vote be taken, the Division Bell shall be rung for not more than ten minutes and the House shall proceed to a vote at the expiry of the ten minutes, or such further time as the Speaker may, for the convenience of the House, direct.

(3) During electronic voting, Members shall cast their votes by pressing either the "Yes," "No," or "Abstain" button.

(4) At the expiry of five minutes or as soon as the result of the voting appears on the indicator board, the Speaker or the Chairperson, as the case may be, shall announce the results of the division forthwith.

(5) A Member who is not able to cast his or her vote due to any reason considered sufficient by the Speaker, may before the result of the division is announced and after obtaining the permission of the Speaker, have his or her vote recorded

verbally by stating whether he or she is in favour of or against the Question.

(6) Where the presiding officer has an original vote, the presiding officer shall cast his or her vote from the Chair.

Technical failure, confusion or error occurring

71. In the event of a technical failure, confusion or error occurring in the course of voting which in the opinion of the Speaker cannot otherwise be corrected, the Speaker may direct the House to another round of electronic voting or proceed to a roll call voting.

Roll call Division claimed

72. (1) The Speaker shall direct a roll call vote to be taken if a Member claims a division and—

- (a) the Speaker considers that there is a reasonable doubt as to the outcome of the vote in question; or
- (b) if, on a question other than a question of procedure, thirty or more Members rise in their places to support the Member claiming the roll call division.

(2) The Speaker shall direct a division to be taken in every instance where the Constitution lays down that a fixed majority is necessary to decide any question.

Roll call voting

73. (1) When the Speaker directs a roll call voting to be taken, the Division Bell shall be rung for ten minutes.

(2) The names of one teller for the "Ayes" and one teller for the "Noes" shall be submitted to the Speaker, and the Speaker shall direct the tellers to take seats at a designated place.

(3) At the end of ten minutes, the Speaker shall direct the doors to be locked and the Bar drawn and no Member shall thereafter enter or leave the House until after the roll call vote has been taken.

(4) When the doors have been locked and the Bar drawn and the names of the tellers have been announced, the Speaker shall put the question again and direct the Clerk to call out the names of Members in alphabetical order in the presence of the tellers.

(5) When called out, each Member shall, thereupon rise in his or her place and declare assent or dissent to the question in the following manner; "I vote Yes"; or, "I vote No"; or, "I Abstain," or use appropriate Kenyan sign language.

(6) After the Clerk has read the last name in the Division list, the tellers shall present the result of

the roll call vote to the Speaker who shall thereupon announce the result of the vote to the House.

In case of confusion or error

74. In case of confusion or error occurring in the course of a roll call voting concerning the numbers or names recorded, which cannot otherwise be corrected, the Speaker shall direct the House to proceed to another roll call vote.

Errors corrected

75. If, after a roll call vote has been made, it is discovered that the number has been inaccurately reported or that an error has occurred in the names on the division list, the fact shall be reported to the House and the Speaker shall direct that the necessary corrections be made.

Decorum during division

76. (1) No Member shall be obliged to vote in a division, but those present and not voting shall either—

(a) in the case of electronic voting, press the “Abstain” button; or

(b) in the case of roll call voting, record their abstention with the Clerk.

(2) It shall be disorderly conduct for a Member to fail to record his or her abstention in a division.

(3) A Member shall not vote on any question in which the Member has a pecuniary interest.

(4) During division, Members shall maintain order in the House and shall be in their designated seats and must remain seated until the result is announced.

PART XVI—RULES OF DEBATE

Proceedings to be in Kiswahili, English or Kenyan Sign Language

77. (1) All proceedings of the House shall be conducted in Kiswahili, English or in Kenyan Sign Language.

(2) A Member who begins a speech in any of the languages provided for under paragraph (1) shall continue in the same language until the conclusion of the Member's speech.

Members to address the Speaker

78. Every Member desiring to speak shall address a request to the Speaker.

Two or more Members requesting to speak

79. If two or more Members request to speak at the same time, the Member called upon by the Speaker shall be entitled to speak.

Speeches may not be read

80. (1) No Member shall read a speech but a Member may read short extracts from written and printed papers in support of an argument and may refresh memory by reference to notes.

(2) The Speaker may allow a Member to read a speech in particular cases where the Speaker is satisfied that this is necessary for precision in statement of facts.

No Member to speak after Question put

81. No Member shall speak to any question after the same has been put by the Speaker.

Speaking twice to a Question

82. (1) No Member shall speak more than once to a question except in Committee of the whole House.

(2) Despite paragraph (1)—

- (a) a Member who has spoken on a question may again be heard to offer explanation of some material part of the Member's speech which has been misunderstood but must not introduce new matter;

(b) a reply shall be allowed to a Member who has moved a substantive Motion but not to a Member who has moved an amendment.

(3) The mover of a substantive Motion may surrender all or part of his or her right to reply to another Member or Members nominated by him or her who have not already spoken to such Motion.

Member who has spoken to question may speak to amendment

82A. Where an amendment has been moved, and if necessary seconded, any Member who has already spoken to the main question may speak to the amendment, and any Member who has not spoken to the main question but speaks to the amendment does not thereby forfeit the right to speak to the main question.

Debate on amendment confined to amendment

82B. (1) Where an amendment has been moved, and if necessary seconded, debate shall be confined to the amendment.

(2) Despite paragraph (1), the Speaker may direct that the debate on the amendment may include debate on the matter of the Motion where, in the Speaker's opinion, the matter of the amendment

is not conveniently severable from the matter of the Motion.

(3) Where the Speaker issues directions under paragraph (2), a Member who speaks to the amendment shall not be entitled, after the amendment has been disposed of, to speak to the Motion, and any Member who has already spoken to the Motion may in speaking to the amendment, speak only to any new matter raised thereby.

Reserving rights of speech

82C. Upon a Motion, other than a Motion by way of amendment to a question proposed by the Speaker, a Member may second by rising in his or her place and signifying acquiescence by bowing the head, without speaking, and such Member shall thereby reserve the same rights of speech as the Member would have had if some other Member had seconded such Motion.

Points of Order

83. (1) Any Member may raise a point of order at any time during the speech of another Member stating that the Member rises on a point of order and that Member shall be required to indicate the Standing Order upon which the point of order is based.

(2) When a Member raises a point of order during the speech of another Member, the Member who was speaking shall thereupon resume his or her

seat and the Member raising the point of order shall do likewise when he or she has concluded his or her submission, but no other Member may, except by leave of the Speaker, speak on the point of order.

(3) The Speaker shall either give a decision on the point of order forthwith or announce that the decision is deferred for consideration after which the Member who was speaking at the time the point of order was raised may continue to speak.

(4) The Speaker or the Chairperson, as the case may be, shall order any Member who unnecessarily and persistently interrupts proceedings or consults loudly and disruptively to withdraw from the Chamber and Standing Order 107 (*Disorderly conduct*) shall apply to any such Member.

Personal Statements

84. By the indulgence of the House, a Member may explain matters of a personal nature although there is no question before the House, but such matter may not be debated.

Anticipating debate

85. (1) It shall be out of order to anticipate the debate of a Bill which has been published as such in the *Gazette* by discussion upon a substantive Motion or an amendment, or by raising the

subject matter of the Bill upon a Motion for the adjournment of the House.

(2) It shall be out of order to anticipate the debate of a Motion of which notice has been given by discussion upon a substantive Motion or an amendment, or by raising the same subject matter upon a Motion of the adjournment of the House.

(3) In determining whether a debate is out of order on the grounds of anticipation, regard shall be had to the probability of the matter anticipated being brought before the House within a reasonable time.

Proceedings of Select Committees not to be referred to

86. No Member shall refer to the substance of the proceedings of a Select Committee before the Committee has made its report to the House.

Contents of speeches

87. (1) Neither the personal conduct of the President, nor the conduct of the Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the Head of State or Government or the representative in Kenya of any friendly country or the conduct of the holder of an office whose removal from such office is dependent upon a

decision of the House shall be referred to adversely, except upon a specific substantive Motion of which at least three days' notice has been given.

(2) It shall be out of order to introduce an argument on any specific question upon which the House has taken a decision during the same Session, except upon a Motion to rescind that decision made with the permission of the Speaker.

(3) It shall be out of order to use offensive or insulting language whether in respect of Members of the House or other persons.

(4) No Member shall impute improper motive to any other Member or to a Senator except upon a specific substantive Motion of which at least three days' notice has been given, calling in question the conduct of that Member or Senator.

(5) It shall be out of order for a Member to criticize or call to question, the proceedings in the Senate or the Speaker's Ruling in the Senate but any debate may be allowed on the structures and roles of the Senate or Parliament.

Retraction and Apologies

88. A Member who has used exceptionable words and declines to explain and retract the words or to offer apologies for the use of the words to the

satisfaction of the Speaker shall be deemed to be disorderly and shall be dealt with in accordance with the rules pertaining to disorderly conduct.

Matters *sub judice* or secret

89. (1) Subject to paragraph (5), no Member shall refer to any particular matter which is *sub judice* or which, by the operation of any written law, is secret.

(2) A matter shall be considered to be *sub judice* when it refers to active criminal or civil proceedings and the discussion of such matter is likely to prejudice its fair determination.

(3) In determining whether a criminal or civil proceeding is active, the following shall apply—

- (a) criminal proceedings shall be deemed to be active when a charge has been made or a summons to appear has been issued;
- (b) criminal proceedings shall be deemed to have ceased to be active when they are concluded by verdict and sentence or discontinuance;
- (c) civil proceedings shall be deemed to be active when arrangements for hearing, such as setting down a case for trial, have been made, until the proceedings are ended by judgment or discontinuance;

(d) appellate proceedings whether criminal or civil shall be deemed to be active from the time when they are commenced by application for leave to appeal or by notice of appeal until the proceedings are ended by judgment or discontinuance.

(4) A Member alleging that a matter is *sub judice* shall provide evidence to show that paragraphs (2) and (3) are applicable.

(5) Notwithstanding this Standing Order, the Speaker may allow reference to any matter before the House or a Committee.

Declaration of interest

90. (1) A Member who wishes to speak on any matter in which the Member has a personal interest shall first declare that interest.

(2) Personal interests include pecuniary interest, proprietary interest, personal relationships and business relationships.

Responsibility for statement of fact

91. (1) A Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Member has sufficient reason to convince the Speaker that the Member is unable to

substantiate the allegations instantly, the Speaker shall require that such Member substantiates the allegations not later than the next sitting day, failure to which the Member shall be deemed to be disorderly within the meaning of Standing Order 107 (*Disorderly conduct*) unless the Member withdraws the allegations and gives a suitable apology, if the Speaker so requires.

92. (Deleted).

93. (Deleted).

94. (Deleted).

Closure of debate

95. (1) After the question on a Motion the Mover of which has a right of reply has been proposed, a Member rising in his or her place may claim to move "That, the Mover be now called upon to reply," and, unless the Speaker is of the opinion that such Motion is an abuse of the proceedings of the House, or an infringement of the rights of Members, the question "That, the Mover be now called upon to reply," shall be put forthwith, and decided without amendment or debate and if that question is agreed to, the Mover may, immediately reply to the debate, and as soon as the Mover has concluded or, if the Mover does not wish to reply, immediately, the Speaker shall put

the question, subject to paragraph 3 of Standing Order 53 (*Manner of debating Motions*).

(2) After the question on a Motion the Mover of which has no right of reply has been proposed, a Member rising in his or her place may claim to move "That, the question be now put," and, unless the Speaker is of the opinion that such a Motion is an abuse of the proceedings of the House, or an infringement of the rights of Members, the question "That, the question be now put," shall be put forthwith, and decided without amendment or debate and if that question is agreed to, the Speaker shall immediately put the question accordingly, subject to paragraph (3) of Standing Order 53 (*Manner of debating Motions*).

Resumption of interrupted business

95A. Any debate interrupted under this Part shall on coming again before the House or the Committee, be resumed at the point where it was interrupted and any Member whose speech was so interrupted shall have the right to speak on such resumption for the remainder of the time available to him or her; but if such Member does not avail himself or herself of this right, his or her speech shall be deemed to have been concluded.

Adjournment of debate

96. (1) A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move "That, the debate be now adjourned," or, in Committee of the whole House "That, the Chairperson do report progress."
- (2) The debate on a dilatory Motion shall be confined to the matter of the Motion.
- (3) If the Speaker is of the opinion that a dilatory Motion is an abuse of the proceedings of the House, the Speaker may forthwith put the question thereon or decline to propose it.
- (4) A Member who has moved or seconded a dilatory Motion which has been negatived may not subsequently move or second another such Motion during the same debate, whether in the House or in Committee of the whole House.

PART XVII—LIMITATION OF DEBATE

Limitation of debate

97. (1) The House may, on a motion made by any Member in accordance with this Standing Order, impose a limit in respect of debate on any particular Motion or Bill by allotting a limited period of time for such debate or by limiting the time during which Members may speak in such debate or by imposing such limitations.

(2) A Motion for limitation of debate under this Standing Order may be made without notice.

(3) A Motion under paragraph (2) shall not be made in the course of the debate to which it refers unless it is moved after the adjournment of such debate and before the debate is resumed.

(4) No Member may speak in a debate on Bills, Sessional Papers, Motions or Reports of Committees for more than twenty minutes without the leave of the Speaker but the Leader of Majority Party and the Leader of Minority Party may each speak for a maximum of 60 minutes.

PART XVIII—ORDER IN THE HOUSE AND IN COMMITTEE OF THE WHOLE HOUSE

Maintenance of order

98. Order shall be maintained in the House by the Speaker and in a Committee of the whole House by the Chairperson of such Committee but disorder in Committee may be censured only by the House on receiving a report thereof.

Security checks

99. (1) A Member shall be subjected to a security check or screening before entering the Chamber.

(2) The security check or screening under paragraph (1) shall extend to a handbag or other

accessory that a Member intends to enter with into the chamber.

Firearms and other offensive weapons

100. No Member shall bring a firearm or any offensive weapon into the Chamber and any such weapon must be deposited with the Serjeant-at-Arms for safe custody before entering the Chamber, and collected at the time of leaving the Chamber.

Lady Members' handbags

101. A lady Member may be allowed into the Chamber with a handbag of reasonable size.

When the Speaker rises Members to be silent

102. Whenever the Speaker or the Chairperson of Committees rises, any Member then speaking, or offering to speak, shall resume his or her seat and the House or the Committee shall be silent, so that the Speaker or the Chairperson of Committees may be heard without interruption.

Members and the Chair

103. (1) Every Member shall bow to the Chair in passing to or from his or her seat or across the Floor of the House but, a Member may show respect in any other manner consistent with the Member's faith and with the dignity of the House.

(2) No Member shall pass between the Chair and any Member who is speaking or between the Chair and the Table except in so far as it is necessary for the purpose of the administration of Oath or Affirmation of Allegiance.

Members to be seated

104. Except when passing to and from his or her seat or when speaking, every Member when in the Chamber shall be seated, and shall not at any time stand in any of the passages and gangways.

Members to remain in their places until the Speaker has left the Chamber

105. When the House adjourns, Members shall stand in their places until the Speaker has left the Chamber.

Irrelevance or repetition

106. The Speaker or the Chairperson of Committees, after having called attention to the conduct of a Member who persists in irrelevance or tedious repetition either of the Member's own arguments or the arguments used by other Members in debate, may, after having first warned him or her direct that the Member discontinue his or her speech.

Disorderly conduct

107. (1) A Member commits an act of disorderly conduct if the Member—

- (a) creates actual disorder;
- (b) knowingly raises a false point of order;
- (c) unnecessarily interrupts proceedings or consults in a disruptive manner;
- (d) fails to record abstention in a division;
- (e) fails to declare personal interest in a matter before the House or a Committee in accordance with Standing Order 90 (*Declaration of interest*);
- (f) deliberately gives false information to the House;
- (g) makes allegations without, in the Speaker's opinion, adequate substantiation;
- (h) threatens to use violence against a Member or other person in the House or Committee;
- (i) votes more than once in breach of these Standing Orders;
- (j) commits any other breach of these Standing Orders, that in the opinion of the Speaker, constitutes disorderly conduct.

(2) The Speaker may call a Member whose conduct is disorderly to order, and—

- (a) caution the Member; or
- (b) order the Member to withdraw from the precincts of the Assembly for a maximum of four days.

Gross disorderly conduct

107A. (1) A Member commits an act of gross disorderly conduct if the Member—

- (a) defies a ruling or direction of the Speaker or Chairperson of Committees;
- (b) declines to explain or retract use of unparliamentary words or declines to offer apologies, despite having been ordered to do so by the Speaker;
- (c) demonstrates or makes disruptive utterances against the suspension of a Member;
- (d) attempts to or causes disorder of whatever nature during an address by a visiting dignitary;
- (e) uses violence against a Member or other person in the House or Committee;
- (f) attempts to or disrupts the Speaker's Procession when the Procession is entering or leaving the Chamber;
- (g) attempts to or removes the mace from its place in the Chamber;

- (h) acts in any other way to the serious detriment of the dignity or orderly procedure of the House; or
- (i) commits any other breach of these Standing Orders, that in the opinion of the Speaker, constitutes gross disorderly conduct.

(2) In this Standing Order, "unparliamentary language" means the use of words which, in the opinion of the person presiding, are deemed to be impolite, rude, abusive or inconsistent with parliamentary procedure or practice.

(3) The Speaker may call a Member whose conduct is grossly disorderly to order, and shall order the Member to withdraw immediately from the precincts of the Assembly for a minimum of five days and a maximum of twenty-eight days, including the day of suspension.

Member may be suspended after being named

108. (1) Any Member may at any time, on a point of order, invite the Speaker or the Chairperson of Committees to name another Member for grossly disorderly conduct, but the decision whether or not to do so shall remain with the Speaker or Chairperson.

(2) Whenever a Member shall have been named by the Speaker or by the Chairperson, then -

- (a) if the breach has been committed by such Member in the House, a Motion shall be made by any other Member present "That, such Member (naming the Member) be suspended from the service of the House," and the Speaker shall forthwith put the question thereon, no amendment, adjournment, or debate being allowed;
- (b) if the breach has been committed in a Committee of the whole House, the Chairperson shall forthwith leave the Chair and report the circumstances to the House; and the Speaker shall on a Motion as aforesaid being made, forthwith put the question, no amendment, adjournment or debate being allowed, as if the offence had been committed in the House itself.

Member suspended to withdraw from precincts of Parliament

109. Whenever a Member has been named in accordance with Standing Order 108 (*Member may be suspended after being named*), the Speaker shall order the Member to withdraw from the Chamber and the precincts of the Assembly.

Duration of suspension of a Member

110. If any Member is suspended under Standing Order 108 (*Member may be suspended after being named*) the suspension on the first occasion shall be for four days including the day of suspension; on the second occasion during the same Session for eight days, including the day of suspension; and on the third or any subsequent occasion during the same Session for twenty-eight days, including the day of suspension.

Effect of suspension

110A. (1) A Member who is ordered to withdraw from the precincts of Assembly under Standing Order 108 (*Member may be suspended after being named*) and Standing Order 111 (*Action to be taken on refusal to withdraw*) shall during the period of such withdrawal or suspension forfeit—

- (a) the right of access to the precincts of the Assembly; and
- (b) his or her salary and all allowances payable during the period.

(2) Suspension from the service of the House shall not exempt the Member so suspended from appearing before a Committee of the House for the consideration of a Bill sponsored by the Member.

Appeal against suspension

110B. (1) Except as provided in this Standing Order, the suspension of a Member or the application of this Standing Order shall not be subject to debate.

(2) A Member suspended from the House under this Part may appeal in writing to the Committee of Privileges within three days of the suspension.

(3) Despite paragraph (2), the Committee may, with leave of the House, admit an appeal received after three days.

(4) Upon receipt of the Member's appeal, the Committee shall within seven days—

- (a) notify the Member, in writing, of the day appointed for the hearing of the appeal;
- (b) notify the Speaker, who shall thereafter admit the Member to the precincts of Parliament on the day(s) appointed for the hearing of the appeal; and
- (c) consider the appeal and after according the Member the right to be heard, submit a report to the House either—
 - (i) upholding the suspension; or
 - (ii) reducing the period of suspension; or
 - (iii) readmitting the Member to the House.

(5) The decision of the Committee regarding the suspension shall be final.

(6) The Member who presided in the House or Committee of the whole House during suspension of an appealing Member shall not participate in the proceedings of the Committee during the appeal, except to give evidence when so required.

(7) A Member designated by the Committee shall inform the House of the decision of the Committee regarding the suspension and the Speaker shall thereupon effect the decision.

(8) The House may, in exceptional circumstances permitted by the Speaker, debate the report of the Committee without amendment or resolution.

Action to be taken on refusal to withdraw

111. If any Member shall refuse to withdraw when required to do so, by or under these Standing Orders, the Speaker or the Chairperson of Committee as the case may be, having called the attention of the House or Committee to the fact that recourse to force is necessary in order to compel such Member to withdraw, shall order such Member to be removed and such Member shall thereupon without question put be suspended from the service of the House for a minimum of twenty-one days and a maximum of

ninety days and shall during such suspension, forfeit the right of access to the precincts of Parliament and the Serjeant-at-Arms shall take necessary action to enforce the order.

Grave disorder in the Assembly

112. (1) In the event of grave disorder arising in the House, the Speaker may, adjourn the House forthwith or suspend any sitting for a period to be determined by him or her.

(2) In the event of grave disorder arising in the Committee of the whole House, the Speaker shall resume the Chair forthwith.

Definition of a day

112A. For the purposes of this Part, a "day" means a calendar day."

PART XIX—PUBLIC BILLS

Application and limitation

113. The provisions of this Part shall apply in respect of all public Bills.

Introduction of Bills

114. (1) A legislative proposal for which a Member or a Committee is in charge shall, together with a memorandum setting out its objectives and matters specified in Standing Order 117

(*Memorandum of Objects and Reasons*), be submitted to the Speaker.

(2) The Speaker shall refer the legislative proposal and the memorandum to the Clerk who shall consider the legislative proposal, draft it in proper form where necessary and submit it to the Speaker with comments on—

- (a) whether the legislative proposal affects or does not affect counties and if it does, whether it is a special or ordinary Bill;
- (b) whether the legislative proposal is a draft money Bill in terms of Article 114 of the Constitution; and
- (c) whether the legislative proposal conforms to the Constitution and the law and is in order as to format and style in accordance with the Standing Orders.

(3) Upon receipt of the legislative proposal from the Clerk under paragraph (2), the Speaker shall—

- (a) where the Speaker is of the opinion that a legislative proposal is not a draft money Bill in terms of Article 114 of the Constitution—
 - (i) direct that the proposal be referred to the relevant Departmental Committee for prepublication scrutiny in case of a legislative

proposal not sponsored by a Committee;

(ii) direct that the proposal be published into a bill, in the case of a legislative proposal sponsored by a Committee.

(b) where the Speaker is of the opinion that a legislative proposal is a draft money Bill in terms of Article 114 of the Constitution, direct that the legislative proposal be referred to the Budget and Appropriations Committee and the proposal shall be proceeded with only in accordance with the recommendations of the Budget and Appropriations Committee after taking into account the views of the Cabinet Secretary responsible for finance.

(4) The Budget and Appropriations Committee shall consider only the money-bill or financial aspects of the proposal and submit a report to the Speaker within twenty-one (21) days of receipt of the proposal.

(5) A report under paragraph (4) shall contain—

(a) the views of the Cabinet Secretary responsible for finance, if any;

(b) a detailed examination of the manner in which the legislative proposal affects

the current and future budgets and may include implications on tax measures;

- (c) a recommendation on whether or not the proposal should be proceeded with;
- (d) any other appropriate recommendation relating to money-bill aspects of the proposal.

(6) Upon receipt of the recommendations of the Budget and Appropriations Committee, the Speaker may direct that—

- (a) the proposal be subjected to prepublication scrutiny before the relevant Departmental Committee in case of a legislative proposal not sponsored by a Committee; or
- (b) the proposal be published into a bill, in the case of a legislative proposal sponsored by a committee; or
- (c) the legislative proposal not be proceeded with.

(7) The Departmental Committee to which a legislative proposal is referred to for prepublication scrutiny under paragraphs (3)(a)(i) and (6)(a) shall consider the proposal and submit a report to the Speaker within twenty-one (21) days recommending whether or not the proposal should be proceeded with.

(8) Following the recommendations of the relevant Departmental Committee, the Speaker shall direct either that the legislative proposal be published into a bill or not be proceeded with.

Speaker to exempt certain legislative proposals

114A. (1) The Speaker may exempt a legislative proposal which originates from the Party forming the National Government from the provisions of Standing Order 114 (*Introduction of Bills*).

(2) An exemption under paragraph (1) may not be granted unless it is accompanied by a copy of the relevant Cabinet approval.

(3) The Party forming the National Government may indicate the Member under whose name the legislative proposal is proposed to be published.

(4) Upon grant of the exemption, the Speaker shall direct that the legislative proposal be published into a Bill.

Printing of amending provisions

115. Where a Bill seeks to amend any provision of an existing Act, the text of the relevant part of such provision shall be printed and supplied as part of the Bill which is availed to Members, unless in the opinion of the Speaker, the amendment is formal, minor or self explanatory.

Enacting formula

116. Every Bill shall contain, as the enacting formula, the words "Enacted by the Parliament of Kenya."

Memorandum of Objects and Reasons

117. Every Bill shall be accompanied by a memorandum containing:

- (a) a statement of the objects and reasons of the Bill;
- (b) a statement of delegation of legislative powers and limitation of fundamental rights and freedom, if any;
- (c) an indication whether it concerns county governments; and
- (d) a statement of its financial implication and if the expenditure of public moneys will be involved should the Bill be enacted, an estimate, where possible, of such expenditure.

Provisions on delegated powers

118. Every Bill that confers on any State organ, State officer or person the authority to make provision having the force of law in Kenya in terms of Article 94(6) of the Constitution shall contain a separate and distinct part of the Bill under the title "Provisions on Delegated Powers" in which shall be expressly specified—

- (a) the purpose and objectives for which that authority is conferred;
- (b) the limits of the authority;
- (c) the nature and scope of the law which may be made; and
- (d) the principles and standards applicable to the law made under the authority.

Limitation of fundamental rights and freedom

119. Every Bill that contains a provision limiting a right or fundamental freedom in terms of Article 24(2) of the Constitution shall contain separate and distinct provisions—

- (a) clearly expressing the specific right or fundamental freedom to be limited; and
- (b) the nature and extent of that limitation.

Publication

120. No Bill shall be introduced unless such Bill together with the memorandum referred to in Standing Order 117 (*Memorandum of Objects and Reasons*), has been published in the *Gazette* (as a Bill to be originated in the Assembly), and unless, in the case of a Consolidated Fund Bill, an Appropriation Bill or a Supplementary Appropriation Bill, a period of seven days, and in the case of any other Bill a period of fourteen

days, beginning in each case from the day of such publication, or such shorter period as the House may resolve with respect to the Bill, has ended.

Bills concerning county government

121. (1) A Bill concerning county governments is—

- (a) a special Bill, which shall be considered under Article 111 of the Constitution if it—
 - (i) relates to the election of members of a county assembly or a county executive; or
 - (ii) is the annual County Allocation of Revenue Bill referred to in Article 218 of the Constitution; or
- (b) an ordinary Bill, which shall be considered as provided under Article 112 of the Constitution, in any other case.

(2) Whenever any question arises as to whether a Bill is a Bill concerning county governments, the Speaker shall determine whether the Bill is a Bill concerning county governments and, if it is, whether it is a special or an ordinary Bill.

(3) Pursuant to Article 110(3) of the Constitution, the Speaker and the Speaker of the Senate may agree on an appropriate framework

for jointly resolving the question under paragraph (2).

Procedure upon Publication

122. (1) Upon publication of a Bill in the *Gazette*, the Clerk shall obtain sufficient copies of the Bill and avail a copy of the Bill to every Member.

(2) A Bill shall be signed by the Member in charge of it and shall be introduced by way of First Reading in accordance with Standing Order 126 (*First Reading*).

(3) A Bill for whom a Committee is in charge shall be introduced by the Chairperson of the Committee or a Member of the Committee designated by the committee for that purpose.

123. (Deleted)

Not more than one stage of a Bill to be taken at the same sitting

124. (1) Except with the leave of the House, not more than one stage of a Bill may be taken at any one sitting.

(2) Paragraph (1) shall not apply to or in respect of—

(a) an Appropriation Bill, a Consolidated Fund Bill, a County Allocation of

Revenue Bill, a Division of Revenue Bill and an Equalization Fund Bill; or

- (b) a Bill to amend the Constitution in respect of its Second and Third Reading.

Reading of Bills

125. A Bill is read by the reading by the Clerk to the assembled House of the title of the Bill.

First Reading

126. Every Bill shall be read a First Time without Motion made or question put.

Committal of Bills to Committees and public participation

127. (1) A Bill having been read a First Time shall stand committed to the relevant Departmental Committee without question put.

(2) Notwithstanding paragraph (1), the Assembly may resolve to commit a Bill to a select committee established for that purpose.

(3) The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism, including—

- (a) inviting submission of memoranda;
- (b) holding public hearings;

(6) Despite paragraph (1)—

- (a) the Speaker may direct that a particular Bill be committed to such committee as the Speaker may determine.
- (b) a Consolidated Fund Bill, an Appropriation Bill, a Supplementary Appropriation Bill or a Finance Bill shall be committed to the Budget and Appropriations Committee.

Second Reading

128. (1) On the Order of the Day being read for the Second Reading of a Bill, a Motion shall be made, "That, theBill be now read a Second Time."

(2) No amendment may be moved to the question "That, theBill be now read a Second Time", other than an amendment to leave out the word "now" and to add, at the end of the question, the words "upon this day..... (state the period)."

Second Reading of a Bill to amend the Constitution

129. A Bill to amend the Constitution shall not be called for the Second Reading in the National Assembly within ninety days after the First Reading of the Bill in the National Assembly.

- (c) consulting relevant stakeholders in a sector; and
- (d) consulting experts on technical subjects.

(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.

(4) Subject to Standing Order 129 (*Second Reading of a Bill to amend the Constitution*) the Chairperson of the Departmental Committee to which a Bill is committed or a Member designated for that purpose by the Committee shall present the Committee's report to the House to inform debate within twenty-one calendar days of such committal and upon such presentation, or if the Committee's report is not presented when it becomes due, the Bill shall be ordered to be read a Second Time on such day as the House Business Committee shall, in consultation with the Member or the Committee in charge of the Bill, appoint.

(5) If for any reason, at the commencement of the Second Reading the report of the Committee has not been presented, the Committee concerned shall report progress to the House and the failure to present the report shall be noted by the Liaison Committee for necessary action.