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REPUBLIC OF KENYA

ELEVENTH PARLIAMENT

(FIRST SESSION)

THE NATIONAL ASSEMBLY

PROCEDURE AND HOUSE RULES COMMITTEE

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

(Submitted pursuant to Standing Order 262)

December 03, 2013

Clerk's Chambers
National Assembly
Parliament Buildings
NAIROBI

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PREFACE

Hon. Members,

The Procedure and House Rules Committee was constituted by the House on April 24, 2013 pursuant to provisions of Standing Order 208. The Committee is mandated to, amongst other matters, “*consider and report on all matters relating to the Standing Orders*”. The Committee is also mandated to propose amendments to the Standing Orders for consideration by the House. Further, the Committee may, from time to time, propose rules for the orderly and effective conduct of business of Committees. Such rules, once approved by the House have the same effect as the Standing Orders.

Hon. Members,

The Members of the Committee are-

1. The Hon. Justin B.N. Muturi, MP - **Speaker of the National Assembly**
2. The Hon. (Dr.) Joyce Laboso, MP - **Deputy Speaker**
3. The Hon. Moses Cheboi, MP - **First Chairperson**
4. The Hon. Racheal Shebesh, MP - **Second Chairperson**
5. The Hon. Tom J. Kajwang, MP - **Third Chairperson**
6. The Hon. Jessica Mbalu, MP - **Fourth Chairperson**
7. The Hon. David Kiaraho, MP
8. The Hon. Oscar Sudi, MP
9. The Hon. Peter Njuguna, MP
10. The Hon. James Murgor, MP
11. The Hon. Bare Shill, MP
12. The Hon. Alice Ng'ang'a, MP
13. The Hon. Abdul Rahim Dawood, MP

14. The Hon. Alice Wahome, MP
15. The Hon. David Wafula, MP
16. The Hon. Robert Mbui, MP
17. The Hon. Abdikadir Omar Mohammed, MP
18. The Hon. Johnson Many Naicca, MP
19. The Hon. Joe Musyimi Mutambu, MP
20. The Hon. Ken Obura Mirenga, MP
21. The Hon. Issack Mwaura, MP

Honourable Members,

During its Special Sitting on Thursday November 28, 2013, the Committee considered the proposal to amend Standing Order 141 to ensure Bills already published or read the First or Second Time do not lapse at the end of the Session. The Committee proposed to protect from lapsing all published Bills even if they have not been read a First Time since all legislative proposals sponsored by legislators are subjected to pre-publication scrutiny and money Bill check before they are published. However, what is yet to be entrenched in terms of practice is the procedure on pre-publication scrutiny of legislative proposals concerning county governments and how they may move between the Houses prior to publication and whether inter-House mediation is at all necessary at this stage.

The Committee also proposed to put a cap of two sessions from the session in which the Bill was published for it to lapse. It also retained the provision that a Bill the consideration of which has not been concluded at the end of the term of a Parliament shall lapse.

Honourable Members,

I must however hasten to add that the Procedure and House Rules Committee is working on a raft of other proposals to amend the Standing Orders to address lessons learnt in the increasingly untidy Statements Hour, financial procedure, committee procedures and codification of established practice, among others. You are therefore encouraged to forward your proposals to the Clerk of the National Assembly by January 17, 2014 in time for a leadership workshop to review the proposals later the same month. I also must add that this will be the last set of amendments that we shall adopt this Parliament since, as you all know, the Standing Orders is a living document which must be allowed to take root and shape the procedure, practice, forms and precedents for the smooth running of the business of the Assembly and its relations with other State Organs, including the Senate. The Rules must therefore be stable and predictable.

It is therefore my pleasure to present and commend this report to the House for adoption.



**THE HON. JUSTIN B.N MUTURI, MP
SPEAKER OF THE NATIONAL ASSEMBLY & CHAIRPERSON, PROCEDURE
AND HOUSE RULES COMMITTEE**

ACKNOWLEDGMENT

Hon. Members, on behalf of the Committee, I wish to sincerely thank the Members of the Committee for their commitment to the work of this Committee. We also thank the Office of the Clerk for facilitating the Committee to undertake the review on such short notice.

ADOPTION OF THE REPORT

The Report was adopted **unanimously** by all Members present during a Sitting of the Procedure and House Rules Committee on November 28, 2013. The Committee also resolved to submit the Report to the House in the afternoon of Tuesday December 03, 2013 and move a motion seeking the approval of the House.

SECOND REPORT OF THE PROCEDURE AND HOUSE RULES COMMITTEE

I. MANDATE OF THE COMMITTEE

The Committee is mandated to, amongst other matters, “consider and report on all matters relating to the Standing Orders”. The Committee is also mandated to propose amendments to the Standing Orders for consideration by the House. Further, the Committee may, from time to time, propose rules for the orderly and effective conduct of business of Committees. Such rules, once approved by the House have the same effect as the Standing Orders.

II. MANNER OF AMENDING THE STANDING ORDERS

Procedure of Amending the Standing Orders

Standing Orders provide three avenues through which they can be amended, namely:-

- (i) The Procedure and House Rules Committee can propose amendments anytime;
- (ii) Amendment on the Initiative of a Member; and,
- (iii) Periodic Review by the Procedure and House Rules Committee.

Commencement of proposed amendments

Proposed Amendments to the Standing Orders take effect at the time appointed by the House, after approval.

III. JUSTIFICATION FOR AMENDING STANDING ORDER 141

Lapsing of Bills

The examination and enactment of legislation are often regarded as the most significant task of any Parliament and the legislative process takes up a major portion of Parliament’s time. The parliamentary stages are the links in a much

longer process that starts with the proposal, formulation and drafting of a bill, through a number of very specific stages in both the Houses, and where applicable only through the National Assembly, before it becomes law.

The new Standing Orders adopted by the Tenth Parliament on January 9, 2013, and further revised on April 25 and May 6, 2013, introduced and codified into the legislative process new practices of introducing Bills including pre-publication scrutiny of legislative proposals sponsored by legislators, new standards of public participation in law making processes, new quorum thresholds, rules for inter-house processing of legislative proposals and Bills, new requirements on delegation of legislative authority, requirements for reporting on any intention to limit fundamental rights and freedoms through legislative proposals, requirements on money Bills, whether the legislative proposals affect or do not affect counties and if they do, whether they are special or ordinary Bills, among other innovations.

Standing Order 141 (3) provides as follows, and I quote;

“A Bill in respect of which the Second Reading has not been concluded at the end of a Session shall lapse at the end of the session in which it was published but may be republished in the same or a different form in accordance with Standing Order 114 (Introduction of Bills)”.

This provides for lapsing of Bills whose second reading is not concluded at the end of a year - almost re-introducing the practice before 2008, where all bills lapsed at the end of a session, irrespective of the stage at which they were. The practice required fresh publication after lapsing.

It is possible that by the end of the current 1st Session this week, a number of bills will not have been read a second time. It is also possible that, debate may conclude, but the question for Second reading not put. Should this happen, then

the bills will have to be subjected to a repeat of prepublication scrutiny and fresh publication before being read a first time again. It also means that the Departmental Committees will have to re-examine the same bills. This will disadvantage individual members who introduced the bills and indeed the House.

The Committee also proposed to protect from lapsing all published Bills even if they have not been read a First Time since all legislative proposals sponsored by legislators are subjected to pre-publication scrutiny and money Bill check before they are published. The Committee also proposed to put a cap of two sessions from the session in which the Bill was published for it to lapse. It also retained the provision that a Bill the consideration of which has not been concluded at the end of the term of a Parliament shall lapse.

IV. RECOMMENDATIONS

The Committee therefore recommends that the House resolves -

1. **THAT**, Standing Order 141 be amended by:

(a) Inserting the following new paragraph immediately before paragraph (2):

(2) A Bill that has been published, read a First Time or in respect of which the Second Reading has not been concluded-

(a) at the end of a Session in which it was published shall not lapse at the end of that Session but shall resume in the next Session of the same Parliament at the stage where it was last interrupted;

(b) at the end of two consecutive Sessions of the same Parliament shall lapse at the end of the second Session and may be republished in the same or different form in accordance with standing order 114 (*Introduction of Bills*).

(b) renumbering paragraph (2) as paragraph (3)

(c) inserting the words “subject to paragraph (2)” at the beginning of new paragraph (3)

(d) deleting the existing paragraph (3)

2. THAT the amendment takes effect from December 4, 2013;
3. THAT an addendum be made to the Standing Orders containing the resolution of the House on the amendment.

-----End-----

**MINUTES OF THE SPECIAL SITTING OF THE PROCEDURE AND HOUSE RULES
COMMITTEE HELD ON THURSDAY, NOVEMBER 28, 2013 IN THE SMALL
DINNING, MAIN PARLIAMENT BUILDINGS AT 12.00 PM.**

MEMBERS PRESENT

1. The Hon. Justin B.N. Muturi, MP - **Speaker of the National Assembly**
2. The Hon. (Dr.) Joyce Laboso, MP - **Deputy Speaker, National Assembly**
3. The Hon. Moses Cheboi, MP - **First Chairperson of Committees**
4. The Hon. Racheal Shebesh, MP - **Second Chairperson of Committees**
5. The Hon. Tom J. Kajwang, MP - **Third Chairperson of Committees**
6. The Hon. James Murgor, MP
7. The Hon. Bare Shill, MP
8. The Hon. Alice Ng'ang'a, MP
9. The Hon. David Wafula, MP
10. The Hon. Issack Mwaura, MP

ABSENT WITH APOLOGY

11. The Hon. Jessica Mbalu, MP - **Fourth Chairperson of Committees**
12. The Hon. David Kiaraho, MP
13. The Hon. Oscar Sudi, MP
14. The Hon. Peter Njuguna, MP
15. The Hon. Bare Shill, MP
16. The Hon. Abdul Rahim Dawood, MP
17. The Hon. Alice Wahome, MP
18. The Hon. Robert Mbui, MP
19. The Hon. Abdikadir Omar Mohammed, MP
20. The Hon. Johnson Manya Naicca, MP
21. The Hon. Joe Musyimi Mutambu, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

1. Mr. Justin Bundi - Clerk of the National Assembly
2. Mr. Michael R. Sialai - Senior Deputy Clerk
3. Mr. Jeremiah Ndombi - Director, Legal Services
4. Mr. Kipkemoi arap Kirui - Principal Clerk Assistant I
5. Perpetua Muiga - Third Clerk Assistant

MIN.NO. 1/2013:

PRELIMINARIES

The Chairperson called the meeting to order at 1.05 PM and opened it with a prayer.

MIN. NO. 2/2013:

REVIEW OF STANDING ORDERS

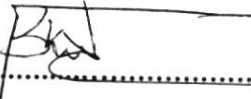
The Committee resolved to propose that the House amends Standing Order No. 141 to protect from lapsing all published Bills even if they have not been read a First Time since all legislative proposals sponsored by legislators are subjected to pre-publication scrutiny and money Bill check before they are published.

The Committee also proposed to put a cap of two sessions from the session in which the Bill was published for it to lapse. It also retained the provision that a Bill the consideration of which has not been concluded at the end of the term of a Parliament shall lapse.

MIN. NO. 3/2013

ADJOURNMENT

And the time being Fourty Two Minutes past One O'clock, the Meeting was adjourned.

Sign..... 
 (Chairperson)
 Date 4/12/2013

