

# **SOCIETY OF CLERKS AT THE TABLE-KENYA**



## **MODEL COUNTY ASSEMBLY PROCEDURE AND PRACTICE MANUAL**







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JANUARY 2018





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## FOREWORD

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There being no precedence of a devolved system in Kenya, disharmony and duplication of efforts affected the County Assemblies after the 2013 General Elections as a result, most Assemblies have since then operated their committees without a standardized manuals.

To address this problem, the Steering Committee of SOCATT, directed the Procedure and Practice Committee to develop a model Procedure and Practice manual. The manual is intended for adoption by the 47 County Assemblies in Kenya, with or without amendments.

The County Assemblies Procedure and Practice Manual will guide the standard operating procedures of the County Assemblies committees and the staff.

This will ensure that the work of County Assemblies is conducted in a systematic and formal manner with a view to strengthen their legislative and oversight roles as provided for in the Constitution of Kenya 2010.

The manual was developed by the SOCATT (K) Committee on procedure and practice. We appreciate The Senate and USAID-AHADI who provided technical and financial resources that made the development of this manual a success.

The objectives of this manual include but are not limited to;

1. Provide the standard operating procedures for members and staff in the County Assembly and,
2. Facilitate effective and efficient County Assembly operations in the chambers

We therefore urge County Assemblies to use this manual as maybe applicable to them.





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## EXECUTIVE SUMMARY

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The County Assembly in Kenya is the law-making organ of the County Government. It is one of the state organs that the Constitution delegates power to. The defunct transitional authority (TA) in a way to support transition developed an interim Standing Order that would be used to provide for the legislative processes in the Assemblies.

The TA Standing Orders (SO) that borrowed heavily from the National Parliament SO was only applicable with amendments to provide for the unique contexts of the different County Assemblies. By the end of the inaugural Assemblies, most Assemblies had domesticated their Standing Orders to align to their operating environment.

Legislative procedure and practice is advised by the standing orders and precedence that has been set in previous legislative processes. In the absence of precedence for the county assemblies there was need to document standard operating procedure and practices that will act as a resource for all assembly legislative processes.

The manual is organized in six parts, part one introduces the sittings of the assembly and what procedures should guide the first sitting of the assembly after a general election. Part two goes ahead to explore the proceedings of the assembly with a view to outline the process before, during and after the plenary meetings of the assembly. The third part speaks to procedure of business in the house while part four details the step to step requirements during the committee of the whole house. Part five speaks to the rules of debate in the County Assemblies with a keen focus on the definition of gross and grave misconduct.

In the last part sample documentations that is used in the different parts is provided for guidance to the user during the development of the same.



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# INTRODUCTION

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## Purpose of this Manual

The basic purpose of this Manual is to provide officers with direction and guidance as relates to how County Assemblies exercise their mandates through Committees and the Plenary. The Constitution establishes County Assemblies and defines their composition under Article 176. The roles of the County Assemblies are provided for variously under the Constitution and the County Governments Act, 2012. Broadly, Article 185 provides for the exclusive law making mandate of the County Assembly. Further functions are provided for under Sections 8 and 9 of the County Governments Act, 2012.

Note that the Procedures, by which the Assembly's functions are realized, as outlined in this manual, find their basis under Section 14 of the County Governments Act, 2012, codified in the Standing Orders.

The said Section provides that—

A County Assembly—

*(a) may make standing orders consistent with the Constitution and this Act regulating the procedure of the County Assembly including, in particular, orders for the proper conduct of proceedings; and (b) subject to standing orders made under paragraph (a), may establish committees in such manner and for such general or special purposes as it considers fit, and regulate the procedure of any committee so established.*

The procedures and processes outlined in this Manual derive from the Standing Orders, and simplify the said processes and procedures for easier application.

## Mandates and Role of County Assemblies

Article 185 of the Constitution provides for the role of the County Assembly as follows:

- (1) The legislative authority of a County is vested in, and exercised by, its County Assembly.*
- (2) A County Assembly may make any laws that are necessary for or incidental to the effective performance of the functions and exercise of the powers of the County government under the Fourth Schedule.*
- (3) A County Assembly, while respecting the principle of separation of powers, may exercise oversight over the County executive committee and any other County executive organs.*
- (4) A County Assembly may receive and approve plans and policies for—*
  - (a) The management and exploitation of the County's resources.*
  - (b) The development of the County.*

In addition to the legislative authority of the County Assembly as provided for by Article 185 of the Constitution, the specific mandates of County assemblies are stipulated under Section 9(1) of the County Governments Act as follows -

Section 9(1) of the CGA 2012 establishes the roles of Members of County Assembly as follows—

*(1) A member of a County Assembly shall—*

- (a) maintain close contact with the electorate and consult them on issues before or under discussion in the County Assembly;*
- (b) present views, opinions and proposals of the electorate to the County Assembly;*
- (c) attend sessions of the County Assembly and its committees;*
- (d) provide a linkage between the County Assembly and the electorate on public service delivery; and*



## INTRODUCTION

- (e) extend professional knowledge, experience or specialized knowledge to any issue for discussion in the County Assembly.

The mandate and role of the County Assemblies from the foregoing can thus be summarized as–

1. Law making
2. Oversight
3. Representation



## PART ONE

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# SITTINGS AND ADJOURNMENT OF COUNTY ASSEMBLY

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### First Sitting of a County Assembly

1. The standing orders provide comprehensively for the procedure during the first sitting of a new county assembly, swearing-in of members, and election of speaker and chairpersons of committees. The processes can be summed up as follows:

#### *Proceedings during First Sitting and Role of Clerk*

2. The first sitting of a new County Assembly is set in motion by the placement of a notice in the *Kenya Gazette* and *County Gazette* communicating the date, time, and venue of the first sitting. This function is the reserve of the governor, who is sworn in 10 days following a general election. The Clerk prepares the draft Gazette notice and shares it with the governor for his signature.
3. This date shall not be later than 14 days pursuant to Section 9(3) of the County Governments Act, 2012.
4. At the first sitting of a new county assembly after a general election, the Clerk—
  - a) Reads the notification convening the county assembly as published in the *Kenya Gazette* and the *County Gazette*.
  - b) Lays a list of the names of the persons elected as members on the table of the county assembly.
  - c) Administers the Oath or Affirmation of Office provided for in the First Schedule of the County Governments Act, 2012 to all members present in the County Assembly in the order set out in the standing orders.
5. Most importantly, for purposes of presiding during the first sitting and before the speaker is elected and sworn in, the Clerk is effectively the presiding officer and as such enjoys the final say on procedural questions that may arise in the interim period before the elected speaker takes over the sitting for purposes of election of the chairperson of committees or adjournment of the assembly.

#### *Swearing in of Members*

6. The Clerk of the County Assembly shall preside over the swearing-in of members and the administration of the oath. The Clerk administers the oath to members of the County Assembly in alphabetical order, generally using the following order of precedence:
  - a) Members with the longest cumulative period of service in the County Assembly.
  - b) Members with the longest cumulative period of service in the County Assembly and any local authority existing prior to the final announcement of all the results of Parliament, as contemplated under section 2 of the Sixth Schedule to the Constitution.
  - c) All other members.
7. Pursuant to 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.
8. When the Clerk is administering the oath to members and before the Clerk has administered the oath to the speaker, any question arising in the County Assembly shall be determined by the Clerk, who shall, during that period, exercise the powers of the speaker.

9. At any other time, the Oath or Affirmation of Office shall be administered by the speaker immediately after prayers. When a member first attends to take his or her seat after the first sitting of the County Assembly, 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.
10. The practice has been that on the day when the election of the speaker is to be conducted after a general election, the sitting of the County Assembly shall commence at 9am.

### ***Election of Speaker - Candidates and Process***

11. Upon the governor notifying the place and date for the first sitting of a new County Assembly, 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.
12. 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 48 hours before the time appointed at which the County Assembly is to meet to elect a speaker.
13. The nomination papers (First Schedule) of a candidate shall be accompanied by the names and signatures of at least two members of the County Assembly (MCA) who support the candidate and a declaration by them that the candidate is qualified to be elected as a member of County Assembly under Article 193 of the Constitution and is willing to serve as speaker of the County Assembly.
14. 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 193 of the Constitution.
15. Immediately upon the close of the nomination period, the Clerk shall-
  - a) Publicize and make available to all members a list showing all qualified candidates.
  - b) Make available to all members copies of the curriculum vitae of the qualified candidates.
16. The Clerk shall, at least two hours before the meeting of the County Assembly, prepare ballot papers upon which shall be shown the names of all candidates validly nominated.

### ***Proceedings on Election of Speaker***

17. The standing orders require the election of the speaker at the beginning of an assembly and again any time a vacancy occurs. At the first sitting of a new assembly, the second business to be conducted after swearing-in of the members of the County Assembly is the election of a speaker.
18. If the office of speaker falls vacant at any time before the expiry of the term of the County Assembly, no business shall be transacted by the County Assembly until the election of a new speaker. A member elected by the County Assembly in accordance with Article 178(2) of the Constitution shall preside over the election.

### ***Secret Ballot***

19. The election of the speaker shall be by secret ballot. The Clerk shall, at the commencement of each ballot, cause the ballot box, empty and unlocked, to be displayed to the County Assembly and shall, in the presence of the County Assembly, lock the box, which shall thereafter be kept in the full view of the County Assembly until the conclusion of the ballot.
20. 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.

21. 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.
22. The Clerk shall make such arrangements as may be necessary to enable any member with disability to vote. 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. 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.
23. 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***

24. A person shall not be elected as speaker unless supported in a ballot by the votes of two-thirds of all members. 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 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***

25. 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 on any ballot papers issued for that or any subsequent ballot.

### ***Equality of Votes***

26. If, in the further ballot, 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***

27. 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 County Assembly and kept in the custody of the Clerk for a period of six months and shall thereafter be destroyed.

### ***Single duly nominated Candidate***

28. 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***

29. 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 County Assembly.

***Notification of Opening of County Assembly***

- 30.** Immediately after taking and subscribing to the Oath or Affirmation of Office, the speaker shall notify the members of the place, date, and time of the opening of the County Assembly. Following the notification by the speaker, the sitting of the County Assembly shall stand adjourned until the date and time of the opening of the County Assembly.

***Election of Chairpersons of Committees or Deputy Speaker***

- 31.** As soon as practicable after the election of a speaker following a general election, a chairperson of committees shall be elected.
- 32.** The chairperson of committees shall preside over all committees of the whole County Assembly but in the absence of the chairperson of committees, a member elected by the County Assembly for that purpose shall preside.
- 33.** If the office of chairperson of committees falls vacant at any time before the end of the term of the County Assembly, the assembly shall, as soon as practicable, elect a member to that office.
- 34.** The procedure for electing a chairperson of committees shall, with necessary modifications, be the same as that prescribed for the election of the speaker.
- 35.** If the chairperson of committees considers that it is desirable that he or she take part in any proceedings in the committee otherwise than as the person presiding, the speaker shall take the chair.

***Adjournment of First Sitting after General Election***

- 36.** Once elected, the new speaker effectively takes over the presiding duties from the Clerk. Once the speaker has issued notification of the place and date of the next sitting of the County Assembly, the assembly stands adjourned until the date and time of the opening of the County Assembly.

***Sittings Generally***

- 37.** Assemblies have different sitting times depending on their specific standing orders regulating sittings. But most sitting days may commence at 9.30am or 2.30pm and are interrupted at 6.30pm or earlier, whichever applies. However, an assembly may resolve to:
- Extend its sitting time.
  - Meet at any other time on a sitting day.
  - Meet on any other day in order to transact business.

***Adjournment***

- 38.** The interruption of proceedings of normal sittings is regulated by a County Assembly's standing orders on sitting hours. However, an assembly may also be adjourned in the event of lack of quorum. Such adjournment is without question being put.

***Adjournment Motions***

- 39.** Additionally, an assembly may be adjourned through a motion. Such a motion may be moved at any time in the course of the proceedings. Motions in this regard include those seeking the adjournment of the assembly to facilitate attendance of the assembly to some urgent county matter outside the assembly.

***Adjournment to a Day other than next Normal Sitting Day***

- 40.** Whenever the assembly has to adjourn to a day other than the next normal sitting day, the adjournment is secured through an adjournment motion, in which case the assembly decides, by a vote, whether to adjourn or not. Such adjournment motions are moved without notice and have often been for the convenience of the assembly.

***Adjournment in Accordance with Calendar***

- 41.** However, if the adjournment is in accordance with the assembly calendar, the assembly adjourns without question put. This is for the simple fact that the date is already specified in the calendar that is approved by the assembly at the commencement of each session.

***Adjournment to Discuss a Matter of County Importance***

- 42.** The assembly may also adjourn to discuss a definite matter of urgent county importance. An adjournment motion to discuss a definite matter of urgent county importance usually enables a member to raise a matter considered urgent and of county importance. Motions seeking this kind of adjournment are moved at any time and without notice. The sequence of events leading up to the moving of such motions is as follows:
- a) The member submits a written notification of the matter to the speaker at least (*specified hours per assembly standing orders*) before the commencement of a sitting at which he or she intends to raise the matter.
  - b) The speaker decides whether the matter falls within the meaning of “a definite matter of urgent county importance”.
  - c) When the speaker decides in the affirmative, he or she informs the assembly accordingly when the matter is raised and if not less than five (*or whichever number prescribed by the standing orders*) other members rise in their places in support, the speaker nominates a time on the same day at which such a motion may be moved.
  - d) This form of motion is intended to facilitate the discussion of a specific subject and only that subject may be discussed. The object is not literally to adjourn the assembly but to set aside scheduled business and time to facilitate deliberation on the matter.
  - e) At the conclusion of the debate, no question is put.





## PART TWO

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### PROCEEDINGS OF THE COUNTY ASSEMBLY

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- 43.** The administration of all assembly business scheduled for the plenary, whether relating to legislation or reports, is a function of the Clerks at the table and journals office. The office facilitates plenary business by processing all bills, preparing legislative documents such as schedule of amendments, preparing reports for laying, making copies available to members, preparing the chamber folders, speaker's communications etc.

#### Before Plenary

- 44.** Before a sitting of the assembly, the table office must liaise with the speaker's office and the Clerk's office to be updated on what is before the assembly for the day. This may include documents such as the supplementary order paper, reports to be tabled, and communication/messages from the speaker.
- 45.** The officers at the table office are in charge of preparing the folders of the speaker and the Clerks at the table before any sitting of the assembly.
- 46.** Each folder should contain ALL documentation as may be necessary for transacting business as appears on the order paper.
- 47.** The rule of thumb, however, is that all folders for use in the assembly **MUST ALWAYS HAVE THE CONSTITUTION, STANDING ORDERS OF THE ASSEMBLY, AND A LIST OF ALL MEMBERS OF THE COUNTY ASSEMBLY.**
- 48.** All documentation from within the assembly that is to be tabled before the assembly must always be passed through the table office for standardization and information.

#### During Plenary

- 49.** All necessary arrangements must be made to ensure that the staff at the table office follow the proceedings of the assembly.
- 50.** This will go a long way in supporting the officers in the assembly if need be and members of the assembly who may need documentation while the assembly is sitting.

#### After Plenary

- 51.** The Clerks at the table prepare votes and proceedings and list of members to speak.
- 52.** All documentation that may have been laid or any lists of speakers that may have been made by the Clerks at the table should always at first instance be delivered to the table office.
- 53.** This will enable seamless flow of information to the public such as the media fraternity and even members of the assembly who may not have been present during particular proceedings and need an update.
- 54.** Any documentation that is kept at the table office must be kept in a systematic manner, to be agreed upon by the team.
- 55.** All members of staff in the office should be aware of the system. Original documents must never be given out to members. Only PHOTOCOPIES may be circulated.





## PART THREE

# PROCEDURE FOR PROCESSING BUSINESS IN THE ASSEMBLY

### Statements

- 56. Meaning:** It is a brief request or pronouncement presented to the house by a member of the County Assembly or chairperson of sectoral committee(s) to convey or seek information on a particular matter.
- 57. General Statements –** raised by a member on an issue(s) of topical concern in the county. A member who so wishes to raise a general statement must hand a written notification to the speaker before such time as prescribed if the statement is to be made on that day.
- 58. County Assembly Business Committee Statement –** is an informative statement presented by a designated member of the County Assembly business committee, bringing to the attention of the assembly the business prioritized for consideration by the assembly for the subsequent week.
- 59. Statement by the Leader of the Majority/Minority Party –** presented by the majority leader or the minority leader, as the case may be, relating to their responsibilities in the assembly or the activities of a committee.
- 60. Committee Statements –** These are inquisitive statements sought by a member of the County Assembly from the county executives through a committee chairperson relating to the matters of concern within the mandate of a committee. All members' requests for statements from committee chairpersons must be addressed to the Clerk in writing for transmission to the speaker for approval.
- 61.** Statements take the form of questions since their primary objective is to seek information. Before processing statements, care must be taken to ensure that the request meets the threshold of the standard criteria. The following guidelines may be applied when handling members' statement requests:
- a) The request should fall within the subjects under the mandate of a particular committee.
  - b) The request ought to be seeking to address a matter of a county scope and not specific to a certain ward, area, or region. If it must tackle a matter within an area/ward, it should be structured in a manner that funnels in from the general to the specific.
  - c) It should not be a pretext for a question or seek an expression of an opinion.
  - d) The request should not seek to repeat in substance any matter already addressed by the assembly within the preceding six months.
  - e) The request should not refer to or seek information on a matter already before a committee.
  - f) The statement should also not seek information that is readily available in ordinary works of reference or official publication.
  - g) The request should not be made on a matter(s) that is *sub judice*.
  - h) Should not be requested from a committee by a member a member of that particular committee (by virtue of being a member of the committee, one can raise any matter during committee sittings rather than through statements).
- 62.** In case the statement request is urgent or requires a multi-sectoral response by virtue of touching on a matter that cuts across various county executive departments or is urgent, such statements may be

directed to the leader of the majority/minority party (whichever is in government), who then reports the response to the assembly. When a request is made to the leader of the majority/minority party, she/he may confirm whether a replying statement would be done the following week or later.

- 63.** Statements requested through this avenue maybe be utilized for issues that:
- a) Are of a county scope and raise cross-cutting issues under more than one committee or department.
  - b) May not be properly addressed by a single committee due to its urgency or nature.
  - c) May be properly addressed under the office of the leader of the majority party.
- 64.** While presenting requests for statements, members should confine themselves to the text of the statement as approved by the speaker.

### ***Responses to Statements***

- 65.** Ordinarily, the chairperson of the committee to which the request was made presents responses on statements to the assembly orally. Whenever a reply is orally presented to the assembly, the speaker may allow limited comments or supplementary questions on the replying statement. Supplementary questions should not introduce a new subject but should be confined to the subject matter of the original statement by seeking clarification.
- 66.** In some cases, the reply statement is laid on the table of the County Assembly. This method may be applied under the discretion of the speaker and occurs when the member who requested the statement is not in the assembly at the time the reply is to be made, or where there is inadequate time to allow it to be read.

### ***Personal Statements***

- 67.** A short factual pronouncement by a member on a matter of personal character such as a personal apology, correction of information made in a speech made by him/her in the house, or a reply to allegations/misrepresentation of facts made against him/her in the house or outside the house. This mechanism provides a limited opportunity for a member to explain matters of a personal nature although the statement is not debatable for there is no question before the assembly.

### ***Timing for Approval/Presentation of Statements***

- 68.** A member seeking to make a request for a personal statement should present to the speaker a written notice of their intention within the prescribed timeline prior to the sitting in which she/he intends to present the statement.

### ***Notices of Motion***

- 69.** Avenue by which motions are formally introduced to the assembly. This is an opportunity for a member who has a motion he or she intends to move in the future to bring the terms of such a motion to the attention of the assembly. Notices relate only to substantive motions, which will have been approved by the speaker and balloted by the assembly business committee.

### **Motions**

- 70.** A motion is a persuasive proposal seeking to have the assembly note or resolve, urge or call upon the county executive to take action on a matter.

### ***Types***

There are two main categories of motions:

### **a) Resolution Motions**

- 71.** A motion by which the assembly is requested to make a definite decision on a matter, which if passed constitutes a formal decision of the assembly on the said matter. Such motions are worded as: “This assembly resolves...”
- i) *Substantive* – is a self-contained proposal (not dependent on another proposal) seeking the assembly to take a decision on a matter. The assembly lists such motions for consideration after a notice of motion has been given.
  - ii) *Procedural* – these are formal motions through which the assembly regulates its own proceedings and/or conduct of business. For example, a motion resolving to extend the hours for a sitting of the assembly. Such motions afford no window of opportunity to members to prosecute issues of concern to the people.

#### **Guidelines for Drafting Resolution Motions**

- 72.** Generally, draft motions should be short and succinct and framed so as to express with as much clarity as possible the distinct decision of the assembly.

A draft motion must:

- i) Deal with matters within the competence of the county assembly.
- ii) Deal with only one substantive matter.
- iii) Consist of a clear and succinct proposed resolution or order of the County Assembly. Any extraneous matter meant to motivate a decision should be omitted and can be put forward when the member introduces the motion for debate in the assembly.
- iv) Not contain statements, quotations, or other matter not strictly necessary to make the proposed resolution or order intelligible.
- v) Not be the same in substance as a resolution that has been approved or rejected by the assembly during the same session.
- vi) Not contain unbecoming or offensive expression.
- vii) Not issue an instruction to the executive.
- viii) Be in writing, signed by the member, and handed over to the Clerk (*preferably through the Clerks in the table office.*)

### **b) Subject for Discussion Motions**

- 73.** These are motions by which the assembly adjourns its programmed business to allow discussion of topical or urgent matters without obligating the assembly to take a decision.
- 74.** Motions of this nature are couched as “*motion for adjournment of the assembly to discuss an urgent matter of county importance pursuant to standing order...*” They are introduced and can only proceed with the leave of the assembly. At the end of debate, no question is put.

#### **Guidelines for Drafting Subject for Discussion Motions**

- i) The wording of a subject for discussion should be limited to identifying the topic, which should be clearly established. A topic that is too vague or broad will lead to unstructured debate.
- ii) The subject matter must be of so serious a nature that it requires immediate action.

- iii) The subject must relate to a specific matter of recent occurrence and not the general state of affairs or to a matter of policy.
- iv) The request must not deal with more than one matter.
- v) The request must concern a matter for which the county government can be held responsible.
- vi) The matter must be raised at the earliest opportunity.

### ***Processing of Motions***

- 75.** Once a member has drafted (*in some cases with the assistance of technical staff*) she/he shall present the signed motion to the Clerk. The Clerk then presents it to the speaker, who may approve it in the form presented or direct that it be altered or that it is inadmissible.
- 76.** When the speaker approves the motion, it is presented to the assembly business committee for prioritization for consideration. This stage is often referred to as “*balloting*”, the purpose of which is to determine the order in which motions shall be considered in the assembly.
- 77.** While balloting motions, the assembly business committee takes into account the fact that party-sponsored motions are always given precedence over all other motions. Once a motion has been balloted by the assembly business committee, a “notice of motion” must be given by the member for the motion to become a property of the assembly.
- 78.** The notice is given under the order “notices of motion” by reading the motion in the form approved by the speaker. This requirement does not apply to motions that may be moved without notice.

### ***Motions that may be moved without notice***

- 79.** Motions of procedural implication do not require “notice”. They include:
  - a) Motion by way of amendment to a question already proposed from the chair.
  - b) Motion for the adjournment of the county assembly or of a debate.
  - c) Motion that the county assembly do dissolve itself into a committee of the whole county assembly.
  - d) Motion moved when the county assembly 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 county assembly with a committee in a resolution reported, or for the recommittal thereof or for the postponement of the further consideration thereof.
  - h) Motion raising a question of privilege.
  - i) Motion for the orders of the county assembly under the standing orders.
  - j) Motion made for the exemption of business from standing orders.
  - k) Motion made for the limitation of a debate.
  - l) Motion made for the postponement or discharge of, or giving precedence to, an order of the day.
  - m) Motion for the extension of sitting time of the county assembly.

### ***Manner of Considering Motions***

- 80.** On the day appointed by the assembly business committee for consideration of the motion, the “owner” of the motion shall move it while emphasizing the import and objectives of the motion.
- 81.** Every motion must be seconded lest it be deemed to have been lost. In order to reserve the right to speak later on the motion, the member seconding it may do so by rising in his or her place and bowing without speaking.
- 82.** Any member may amend a motion in the course of its consideration by the assembly. A member wishing to amend the motion can do so by submitting to the Clerk the proposed amendment in writing. Any member may propose to further amend the amendments so proposed. Proposed amendments may take the following forms:
  - a) Leaving out some words in the motion.
  - b) Deletion of some words in the motion and replacing them with other words.
  - c) Insertion of words in the motion.
- 83.** Any amendment(s) to a motion shall only be proposed after the motion has been moved, seconded, and the question upon the motion has been proposed and before it is put.
- 84.** Proposed amendments must be relevant to the motion, may not introduce a new subject or extend the scope of the original motion, and should not be a direct negation of the question proposed.

### **Public Petitions**

#### ***Meaning***

- 85.** A petition is a written prayer to the County Assembly by a member of the public or a private entity requesting the County Assembly to consider any matter within its authority, including enacting, amending, or repealing any legislation. A member shall not be eligible to present a petition on his/her own behalf.

#### ***Submission and Processing of Petitions***

- 86.** All petitions to the County Assembly shall be submitted to the Clerk by the petitioner(s). The Clerk reviews the petition within seven days of the date of receipt to ascertain whether the petition meets the requirements of the standing orders and the applicable law.
- 87.** If the petition does not comply with the standing orders or the law, the Clerk may give such directions as are necessary to ensure that the petition is amended to comply with the standing orders and the applicable law.
- 88.** Once the Clerk is satisfied that the petition meets the requirements set out in the standing orders and the applicable law, she/he shall forward the petition to the speaker for approval and presentation to the County Assembly.
- 89.** The Clerk shall keep and maintain a register in which shall be recorded all petitions and supporting documents and the decisions of the County Assembly. The register shall be accessible to the public upon request.

#### ***General Form of a Public Petition***

- 90.** Further to the requirements relating to petitions, the standard form for public petitions is found in the schedules to the standing orders.

### ***Presentation of Petitions***

- 91.** Petitions may be reported to the County Assembly under the order “petitions” by:
  - a) The speaker (in case of a petition presented through the Clerk).
  - b) A member on behalf of a petitioner, with the consent of the speaker (in case of a petition presented by a member.) A notice of two sitting days or such time as prescribed in the standing orders is required for a petition to be presented by a member.
- 92.** The Clerk may, for convenience purposes, append a list of petitions scheduled for presentation to the order paper of the sitting day during which the petition is scheduled for presentation.
- 93.** The member presenting the petition shall read the petition in the form approved by the speaker and shall confine him/herself to the subject of the prayer and the material allegations therein. Thereafter, she/he shall lay the petition on the table of the County Assembly without question put.
- 94.** A member presenting a petition shall not speak for more than five minutes, unless with the permission of the speaker.

### ***Comments on Petitions***

- 95.** A member wishing to make comments, observations, or seek clarifications on a petition may do so with the indulgence of the speaker. The speaker may allow the request(s), provided that the total time for the petition does not exceed 30 minutes.

### ***Committal of Petitions***

- 96.** Every petition presented or reported to the County Assembly shall stand committed to the relevant sectoral committee.
- 97.** A sectoral committee has a prescribed number of calendar days depending on the standing orders from the time of presentation of the petition to consider and table a report on it in the County Assembly.
- 98.** Depending on the specific standing orders of an assembly, the report of a committee on a petition may either be laid for noting in the assembly, in which case the speaker may allow debate for a prescribed short period of time, or laid and introduced for formal debate at a later stage by way of a notice of motion.

### ***Transmission of Assembly Reports on Petitions***

- 99.** The Clerk is expected to notify the petitioner(s) of the decision of the County Assembly on the petition and forward to them a copy of the sectoral committee report on a petition within the prescribed period in the standing orders of the petition being laid before the assembly.

### ***Papers***

- 100.** Any printed or electronic material laid on the table of the assembly or a committee of the assembly pursuant to any law or standing orders or any other material as the speaker may determine. This is an opportunity for official documents, such as reports of statutory bodies or those of select committees, to be formally presented to the assembly.



## PART FOUR

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# PROCEDURE FOR PROCESSING AND CONSIDERATION OF BILLS IN THE COMMITTEE OF THE WHOLE ASSEMBLY

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### Meaning and Import of Bills

- 101.** A bill is a proposed law at a post-publication stage. Bills seek to introduce new legislation, amend, or repeal existing law(s).

### Origination of Bills

- 102.** Bills may originate from—
- a) The county executive (*introduced to the assembly through the leader of the majority party*).
  - b) Individual member(s) of the assembly (*introduced to the assembly through the members sponsoring the bill*).
  - c) Sectoral committee of the assembly (*introduced to the assembly through the chairperson of the relevant sectoral committee*).
  - d) Private citizens/stakeholders/interest groups by way of a petition (*introduced to the assembly by way of a petition conveyed by the speaker and committed to the relevant sectoral committee for action*).

### Procedure for Processing Bills by Members' Initiative

- 103.** A member wishing to introduce a bill first needs to present to the speaker a legislative proposal in accordance with the standing orders. The following requirements should be met when presenting a legislative proposal:
- a) A letter presenting the legislative proposal to the speaker.
  - b) A draft copy of the legislative proposal.
  - c) A memorandum of objectives and reasons for which the legislative proposal is made.
  - d) A statement whether the proposal will occasion additional expenditure i.e. is a “money bill” or not.
  - e) A statement on limitation of fundamental rights and freedoms, if any.
- 104.** The legislative proposal is subjected to a review to ascertain whether it conforms to the provisions of the standing orders, statutes, and the Constitution. The scrutiny includes establishing that the bill is drafted in the prescribed legal language.
- 105.** If the bill meets the stipulated threshold and does not fall within the definition of “money bill” in terms of Section 21 of the County Governments Act, it is referred to the relevant sectoral committee for pre-publication scrutiny.
- 106.** If in the opinion of the speaker the legislative proposal has the effect of occasioning additional expenditure from public funds, the bill is referred to the relevant sectoral committee and/or the county budget and appropriations committee for consideration.



## Publication of Bills

107. Before approving publication of a legislative proposal into a bill, the speaker shall take into account the recommendations of the relevant committee that undertook pre-publication scrutiny of the proposal. In the case of “money bills”, the speaker must satisfy himself/herself that the relevant sectoral committee and the county budget and appropriations committee has taken into consideration the opinion of the county executive responsible for finance.
108. Once approved by the speaker, the legislative proposal shall be published in the *County Gazette* and the *Kenya Gazette*.

## Publication Period for Bills

109. This is the period within which a bill matures before introduction in the assembly for the first reading.
110. Save for a county revenue fund bill, an appropriation bill, or a supplementary appropriation bill, whose publication period is seven days, any other bill shall mature at the expiration of 14 days..
111. However, the assembly may, by way of a resolution, shorten the publication period by such number of days as shall be deemed fit.

## Stages of a Bill

112. Bills in the assembly go through six main stages, namely:

### ***First Reading***

The bill is introduced in the assembly for the first time and the Clerk reads out the LONG TITLE of the bill. No debate arises at this stage. Upon being read a first time, the bill stands committed to the relevant sectoral committee for consideration without question put.

### ***Second Reading***

This is the stage at which the assembly extensively undertakes the main debate on the principles and objectives of the bill. At the commencement of this stage, the member in charge of the bill moves that “the xyz bill be now read a second time” and proceeds to make a case for the bill. No amendments are proposed at this stage. However, members may indicate in general terms how the bill might be amended but discussion on points of the detail of the conceived amendments shall be left to the committee stage. At the end of the debate, a question is put, which if carried, the bill proceeds to the committee stage but if negated, the bill is lost.

### ***Committee Stage***

At this stage, the assembly dissolves itself into a committee of the whole County Assembly to consider the bill clause by clause. Proposed amendments to the bill are considered and a vote would decide whether to accept or reject the amendments so proposed. A member dissatisfied with the decision of the committee on any clause(s) may indicate the intention to re-commit a particular clause(s) for re-consideration by the committee during the reporting stage when the house resumes.

### ***Report Stage***

This is the stage at which the chairperson of the committee of the whole County Assembly convened to consider a bill(s) at the committee stage reports to the assembly, having resumed in plenary, its consideration of a bill. Thereafter, a motion for agreement with the report of the committee of the whole County Assembly is moved, seconded, and question proposed.

At this point, a member may move that the motion be amended by inserting the words “subject to re-committal of clause(s)/schedule/title (as the case may be) of the bill”. If the motion is accepted, the assembly shall dissolve into a committee of the whole County Assembly henceforth, or upon a day appointed by the County Assembly business committee. The committee shall confine itself to dealing with the clause(s), schedule, or title as re-committed.



### ***Third Reading***

This is the stage at which a bill is passed. The third reading of a bill is confined to a motion **“that ..... bill be now read a third time”**. At this stage, no amendment may be moved to this motion, save for the amendment proposing to leave out the word “now” and adding at the end of the question the words “upon *this day*” (specify the day/date).

At this stage, members take a vote upon the motion “that xyz bill be now read a third time”. If the result of the vote is in the affirmative, the assembly is deemed to have passed the bill. If the motion is negated, the bill is lost.

### ***Governor’s Assent***

Upon passage of a bill by the assembly, the speaker shall, within 14 days, present it for assent by the governor. Pursuant to Standing Order 135(2), the governor shall within 14 days after receipt of a bill—

- a) Assent to the bill.
- b) Or refer the bill back to the county assembly with a memorandum outlining the reasons for the referral.

If the governor refers a bill back to the County Assembly, the assembly shall re-consider the bill. The assembly shall confine itself to the clauses to which the governor has expressed reservation.

### **Consideration of Governor’s Memorandum on Refusal to Assent to a Bill(s)**

- 113.** Whenever the governor declines to assent to a bill(s) and refers it back to the assembly, the following steps shall be followed:

#### ***Step 1: Conveyance of the Message***

- 114.** The speaker conveys to the assembly a message on the memorandum pursuant to the provisions of the standing orders on “messages from the governor” and where applicable, gives any special guidelines.

#### ***Step 2: Referral to the Committee***

- 115.** Upon conveyance of the message on the governor’s memorandum to the assembly, it shall be committed to the relevant sectoral committee for consideration and the Clerk shall circulate copies of the said memorandum to the committee and all members. The committee then lays a report, containing its recommendations on the memorandum, on the table of the assembly.
- 116.** The report informs the assembly of its consideration of the governor’s memorandum, especially when it disagrees with the governor’s recommendations. The committee may propose amendments to the governor’s recommendations. Members are also at liberty to file with the Clerk their amendments to the recommendations in their individual capacities.

#### ***Step 3: Consideration in the Committee of the Whole Assembly***

- 117.** On the day set aside for consideration of the governor’s recommendations on a bill, the said recommendations (amendments) shall be published in the notice paper attached to the order paper for the sitting day. The same is done for amendments proposed by the committee and members on the governor’s recommendations.
- 118.** The memorandum is considered directly in the committee of the whole assembly, which confines itself to the clauses/schedule/title to which the governor has raised recommendations in a sequential manner.
- 119.** Each clause is considered separately in the following sequence:
  - a) Clerk calling out the clause as follows: *“The governor’s recommendations to clause...”*
  - b) The chairperson proposes the question that: *“The governor’s recommendations to clause ... be now approved”*.

- c) Members with amendments (if any) are called sequentially to move their amendments.
- d) Debate on the proposed amendments may be initiated if members express an interest.
- e) Question is put for the amendments, which question requires two-thirds majority of the assembly to be carried.
- f) If the amendment is carried, the chairperson puts the question that *“the governor’s recommendations to clause ... as amended be now approved”*.
- g) The process is replicated for all clauses (including the title) to which the governor raised recommendations.
- h) The mover moves reporting as follows: *“That the committee of the whole do report to the assembly its consideration of the governor’s recommendations to .... bill”*.
- i) The chairperson puts the question *“that the committee of the whole assembly do report to the assembly its consideration of the governor’s recommendations to .... bill”*.
- j) The assembly reconvenes in plenary.

#### **Step 4: Approval of the Report of the Committee of the Whole Assembly**

**120.** At this stage, consideration of the governor’s memorandum is reported to the assembly. The sequence is as follows:

- a) The chairperson of the committee of the whole assembly moves that *“the committee of the whole assembly has put in consideration the governor’s recommendations to .... bill and approved the same with/without amendments”*
- b) The speaker calls upon the mover of the bill to move that *“the assembly do agree with the committee of the whole assembly in the said report”*.
- c) The speaker then proposes the question that *“the assembly do agree with the committee of the whole assembly in the said report”*.
- d) Where members express an interest, the speaker may allow minimal debate to arise.
- e) The speaker puts the question that *“the assembly do agree with the committee of the whole assembly in the said report”*.
- f) Once the question has been put, the process ends. The bill does not require to be read a third time again.

### **Withdrawal of Bills**

**121.** If a member in charge of a bill desires to withdraw it before it is introduced in the County Assembly, she/he shall, in writing specifying the reasons for the withdrawal, notify the speaker of the withdrawal..

**122.** In instances where the bill is already before the assembly, the mover may, without notice, withdraw it in accordance with the provisions of the standing orders. This can be done either before the commencement of business or upon the reading out of the order of the day for any stage of the bill.

### **Processing Amendments to Bills**

#### **Submission and Timing of Amendments**

**123.** Upon conclusion of the second reading of a bill and before a bill is scheduled for consideration in the committee of the whole, a member wishing to amend any provision of the bill shall submit his/her proposed amendments to the Clerk in writing.

- 124.** All proposed amendments must be notified to the Clerk in writing at least 24 hours before the commencement of the sitting at which that bill is to be considered. Notwithstanding this requirement, the member in charge of a bill may submit amendments at any time, including during the committee stage, by simply delivering the proposed amendment in writing, to the chairperson presiding over the committee of the whole. Such amendments by the mover while in the committee of the whole are commonly referred to as “*floor amendments*”.
- 125.** In instances where the proposed amendments are numerous to the extent that virtually every clause of the bill is being amended, and the speaker is of the opinion that they require harmonization she/he may direct all members proposing amendments to the bill to appear before the relevant sectoral committee handling the bill for purposes of harmonizing and condensing them. This process is commonly couched as “*winnowing*” after which the harmonized amendments are taken over by the relevant sectoral committee and moved by the chairperson of that committee.

### ***Admissibility of Amendments***

- 126.** The speaker/Clerk shall take into account, among others, the following parameters in determining admissibility of proposed amendments:
- a) The amendments must be relevant to the subject matter of the bill and in particular, to the specific clause/schedule/title it is proposing to amend.
  - b) The proposed amendments must not be inconsistent with a previous decision already taken at the committee stage, except where an alternative amendment is proposed to the same place in the bill.
  - c) In the case of amendments to the schedule, such amendments should not go beyond the scope of or contravene the relevant clause already considered by the committee in the affirmative.
  - d) The amendments in respect of the title should only have the import of rectifying a mistake in the title as published and/or aligning it with the amendments consequential thereto.
  - e) Amendments to correct punctuation and/or amend headings of clauses or parts of the bill should be disallowed since they are technically not part of the bill and are, therefore, not subject to amendment.

## **Procedure in Committee of the Whole County Assembly on a Bill:**

### ***Meaning, Mandate and Powers of the Committee of the Whole Assembly***

- 127.** The committee of the whole County Assembly, as implicit in the name, consists of all the members of the assembly. Otherwise put, it is in fact the assembly itself in a less formal guise of the assembly in plenary, presided over by a chairperson and conducting its business according to more flexible rules of procedure.
- 128.** The mandate and powers of the committee of the whole assembly are limited to the following:
- a) Consideration of bills referred to it by the assembly while taking into account any instructions given to it by the assembly through the speaker.
  - b) The committee cannot adjourn a sitting of the assembly or adjourn its consideration of a bill to a future sitting unless the committee reports to the assembly its conclusive consideration of a bill or progress made in consideration of a bill committed to it. Such a decision is the preserve of the assembly sitting in plenary.

### ***Powers and Duties of Chairperson of the Committee of the Whole Assembly***

- 129.** The chairperson of the committee of the whole assembly wields powers similar to those conferred to the speaker when presiding over a sitting of the assembly.
- 130.** His/her duties are largely confined to the following:
- a) Presiding over the committee of the whole assembly (*the chairperson therefore has no vote*).

- b) Proposing the question for amendments to clauses, schedules, title of the bill under consideration and putting the question thereon.
- c) Making a formal report of the committee of the whole assembly to the plenary upon resumption of the assembly.

### ***Procedure***

- 131.** Consideration of bills in the committee of the whole County Assembly shall proceed in the manner prescribed by the standing orders. Once the order for committee of the whole County Assembly has been called, the chairperson has taken his/her seat, and the committee has been called to order, deliberation on the bill under consideration shall proceed in the sequence provided for in the standing orders, which is:

- a) Clauses as printed, excluding the clauses providing for the citation of the bill, the commencement, if any, and the interpretation.
- b) New clauses.
- c) Schedules.
- d) New schedules.
- e) Interpretation.
- f) Preamble, if any.
- g) Long title.
- h) The clauses providing for the citation of the bill and the commencement.

### ***Clauses/schedules without amendments***

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

### ***Clauses/schedules with amendments***

- 133.** Consideration of clauses/schedules with amendments is done in two stages.

#### ***Stage one: Proposition of the question and consideration of proposed amendments***

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

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

#### ***Consideration of amendment to the proposed amendment***

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

- 135.** In disposing of the amendment, precedence shall be accorded to the amendment to the amendment. If a question for the latter amendment is carried, then the original amendment is deemed to have been defeated and if the converse happens, the assembly shall revert to consider the original amendment at the end of which a question for the amendment is put.

### ***Consideration of further amendments***

- 136.** Unlike amendment to an amendment, a further amendment is a subsequent amendment to the same clause/schedule/title for which another amendment has already been proposed and disposed of. Notice for all further amendments must be given at least 24 hours before commencement of the sitting in which the bill they relate to is scheduled for consideration in the committee of the whole County Assembly. They must also be published in the order paper. This condition precludes *floor amendments* proposed by the owner of the bill.
- 137.** In disposing of clauses or schedules where various amendments have been proposed, precedence shall be accorded to the amendment proposing deletion.
- 138.** ***Stage two: Putting of the question for the clause*** - Once the committee has expressed itself on all proposed amendments to a clause/schedule/title, the chairperson shall put the question that "clause/schedule/title as amended be part of the bill".

### ***New Clauses/Schedules***

- 139.** In principle, new clauses/schedules are expected to be considered at all stages preceding the committee stage. However, it is presumed that having their publication in the order paper constitutes the first reading. Consideration of new clauses/schedules therefore progresses through the following stages:

#### ***Stage One: Second Reading***

- 140.** First, the Clerk calls out the new clause or schedule. Thereafter, the chairperson calls the mover to move the second reading of the new clause or schedule. This is done by way of motion framed as: "I beg to move that the new clause/schedule '3A' be read a second time" and proceeds to explain the meaning, purpose, and effect of the proposed amendment. The motion does not necessarily require to be seconded.

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

#### ***Stage Two: Putting the Question***

- 141.** This stage implies inclusion of the approved new clause/schedule in the bill. At this stage, the chairperson proposes the question that "the new clause/schedule '3A' be part of the bill", then allows interested members to debate the motion. Thereafter, the chairperson puts the question that "the new clause/schedule '3A' be part of the bill". If the question is agreed to, the new clause/schedule as approved stands as part of the bill.

### ***Reporting Committee Stage - Consideration of Bills to the County Assembly***

- 142.** Upon conclusion of the proceedings on a bill(s) in the committee of the whole County Assembly, the member(s) in charge of the bill(s) shall move the motion, "that the committee do report to the County Assembly its consideration of the 'xyz' bill and its approval thereof with/without amendments (*whichever is applicable*)."
- 143.** The chairperson shall put the question thereon and once the committee agrees to the question, the chairperson shall forthwith leave the chair of the committee and the County Assembly shall resume. Upon resumption of the assembly, the bill(s) shall be reported in accordance with the provisions of the standing orders.

### **Reporting Progress of the Committee of the Whole Assembly**

**144.** Reporting progress of the committee of the whole assembly may be invoked under the following two scenarios:

- a) At the time of adjournment of the assembly and no procedural motion to extend sitting time has been moved and agreed, yet the committee stage on a bill has not been concluded.
- b) When the mover, the chairperson of the relevant sectoral committee, or any other member is desirous of postponing consideration of a bill(s) at committee stage to a later date for one reason or another. For example, when additional time is required to allow more members to file proposed amendments to the bill or to harmonize proposed amendments through the *winnowing process*.

**145.** Any member wishing to indulge the house to report progress of the committee of the whole assembly shall do so by way of a motion. The motion is generally framed as follows:

*"I beg to move that the committee do report to the assembly its partial consideration of the 'xyz' bill up to clause/schedule..., and its approval thereof with/without amendments (whichever is applicable), and seek leave to sit again."*

Thereupon, the chairperson shall put the question -

*"That the committee do report to the assembly its partial consideration of the ... bill up to clause/schedule ..., and its approval thereof with/without amendments (whichever is applicable), and seek leave to sit again."*

**146.** If the question is decided in the affirmative, the chairperson shall leave the chair and the chairperson, or, if the chairperson has taken the speaker's chair, the member in charge of the bill shall report progress to the County Assembly and shall seek leave to sit again. This shall be reported as follows:

*"I beg to report that the committee of the whole county assembly has partially considered the .... bill up to clause/schedule ..., and its approval thereof with/without amendments (whichever is applicable), and seek leave to sit again."*

**147.** The speaker then calls upon the owner of the bill to move agreement with the said report of the committee. This motion needs to be seconded. Subsequently, the speaker shall propose the question for adoption of the said report and thereafter put the question forthwith or at the end of the ensuing debate.

**148.** Resumption of consideration of the bill(s) in question shall be determined by the county assembly business committee in consultation with the member in charge of the bill.

**Note:** The procedure in the committee of the whole assembly on a memorandum by the governor on refusal to a bill(s) is covered under 'stages of a bill'.



## PART FIVE

### RULES OF DEBATE IN THE COUNTY ASSEMBLY

- 149.** These are the guidelines expected to be observed by members for the orderly conduct of business before the County Assembly. These rules are provided for in the County Assembly standing orders. They include:
- a) **Language:** Proceedings are to be transacted in the official languages, being English, Kiswahili, and the Kenya sign language. Noteworthy, a member must speak in the same language and conclude his/her contribution in the language the member started with.
  - b) **Reference to the speaker:** All requests to speak to a motion must be channeled through the chairperson. Furthermore, a member speaking to a motion shall address the speaker at all times.
  - c) **Number of members speaking to a motion:** At any one given time, only one member shall speak to a motion. In the event that two or more members have requested to speak, the member called by the speaker shall speak to the motion.
  - d) **Reference to written materials:** Members shall not read speeches. Nonetheless, a member can read short extracts from written documents and the speaker shall allow printed papers in support of the argument being prosecuted. An entire speech may only be read when the speaker is satisfied that it is necessary for precision of facts and avoidance of doubt on the matter being prosecuted.
  - e) **Speaking to a motion for which a question has been put:** No member shall speak to a motion after the question has been put by the speaker, regardless of whether it is decided in the affirmative or negative.
  - f) **Speaking twice on a question:** No member shall speak more than once to a question except under the following circumstances:
    - i) In the committee of the whole assembly.
    - ii) When required to offer an explanation on some material part of the member's speech.
    - iii) When replying to a substantive motion which she/he had moved.
    - iv) When speaking to an amendment to a substantive motion before the county assembly.
  - g) **Points of order:** Any member may raise a point of order at any time during the speech of another member through the speaker. If the request is acceded to, the member shall be required to indicate the standing order upon which the point of order is raised.
  - h) **Personal statement:** A member wishing to explain the indulgence of the County Assembly - a member may explain matters of a personal nature with the indulgence of the house.
  - i) **Anticipating debate:** No member shall, while contributing to another motion, raise matters relating to a bill, report, or motion before such matter is brought before the house for debate.
  - j) **Reference to proceedings of select committees:** Members shall not refer to the proceedings of select committees before the committee(s) has laid its report on the table of the County Assembly.
  - k) **Contents of speeches:** Members shall not discuss, adversely refer to, or discuss the conduct of the governor, the speaker, a judge, head of state or government, a representative of a friendly country, or holders of an office(s) whose removal is dependent upon a decision of the County Assembly without a substantive motion for which at least three days' notice is required.

- l) **Retraction and apologies:** Whenever the speaker determines that a member has used exceptionable words that demean or impute improper motive on the dignity of the assembly or a member of the assembly, the member shall be ordered to withdraw and apologize. In the event that the member defies the order, she/he shall be deemed to be of disorderly conduct and shall be sanctioned by the speaker in accordance with the provisions of the standing orders.
- m) **Matters *sub judice*** (pending in court): A matter is considered *sub judice* if civil or criminal proceedings relating to it are ongoing in a court of law or constitutional tribunal and deliberating on it by the assembly is likely to influence fair determination of the matter(s). Determination of whether a matter is *sub judice* or not shall be based on the criteria set out in the standing orders.

The *sub judice* rule is based on the assumption that the privilege of freedom of speech in the assembly places a corresponding duty on members to use their freedom responsibly. Therefore, members shall not refer to any particular matter(s) which is active in a court of law or constitutional tribunal, or which, by the operation of any written law, is secret, save in exceptional circumstances where the speaker may allow reference to such matters.

- n) **Declaration of interest:** A member who wishes to speak on any matter in which he or she has a pecuniary or proprietary interest shall first declare that interest. This is meant to eliminate the eventuality of conflict of interest.
- o) **Allegations of fact(s):** Members must not allege specific matters of fact as being true unless they can substantiate them by producing evidence that reasonably justifies such allegations. A member shall be responsible for the accuracy of any fact(s) she/he alleges to be true and shall be required to substantiate immediately on not later than the next sitting day, as may be ordered by the speaker.
- p) **Debate on amendments:** Any member contributing to an amendment(s) shall confine himself or herself to the amendment. A member who speaks to an amendment but had not spoken to the main question shall reserve the right to speak to the question once the amendment is disposed of, save for the circumstances contemplated by the standing orders.
- q) **Reserving the right to speak after seconding a motion:** A member who has been called upon by the mover to second a motion may reserve the right to contribute to that motion at a later time by simply bowing to signify agreement to have seconded the motion.
- r) **Questions for which the mover has a right to reply:** At the point of deliberation on a question of a motion whose mover has the right to reply has been proposed, any member may move the house to close debate on the question. This is done by way of a motion, “that the mover be now called upon to reply”. However, the discretion whether to put the question or not rests with the speaker. If he or she decides to put the question and the assembly decides in the affirmative, then the mover replies forthwith.
- s) **Questions for which the mover has no right to reply: Closure of debate:** at any point of debate on a motion for which a question has been proposed, any member wishing to close debate on the question may move the motion “that the question be now put”. Unless the speaker is of the opinion that the motion is an infringement on the rights of members, she/he shall proceed and put the question, “that the question be now put”. If it is decided in the affirmative, the speaker shall put the question accordingly in accordance with the standing orders.
- t) **Adjournment of debate:** This provision is invoked when a member wishes to postpone debate on a motion for a question to a future sitting through the motion – “that the debate be now adjourned”. If the speaker is satisfied that the motion is not tantamount to an abuse to the proceedings of the County Assembly she/he shall put the question forthwith. If carried, debate is adjourned but if negative, debate continues.

**Note:** The import of the motion is similar to the one for the motion for reporting progress when the assembly is in committee.





- u) **Limitation of debate:** Is meant to impose a limit on the duration of a debate on any particular motion and/or the maximum time each member wishing to speak to the debate may be entitled to. Such motions are commonly moved at the commencement of a session or part of a session but may also be moved during a sitting of the assembly, provided that such a motion is moved after a question has been proposed but before commencement of debate on the specific question for which limitation of time is sought.
- v) **Irrelevance or repetition:** While speaking to questions before the assembly, members shall ensure that their speeches are relevant to the subject matter of the motion. Persistent irrelevance or tedious repetition of arguments already advanced by the member in question or any other member who has already spoken on a question may necessitate the speaker to discontinue the member's debate after warning the member. Irrelevance could cause the speaker to discontinue a member's speech.
- w) **Personal interest:** A member who wishes to speak on any matter in which he or she has a pecuniary or proprietary interest shall first declare that interest.
- x) **Anticipation:** It shall be out of order to anticipate the debate of a bill that has been published in the *Gazette*. A member cannot also anticipate the debate of a motion for which notice has been given.

### Disorderly Conduct

Gross disorderly conduct

Grave disorderly conduct



## **PART SIX**

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### **ANNEXES**

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**Annexure I Nomination Paper – Candidates for Election as Speaker**

**Annexure II General Form of a Public Petition**

**Annexure III Committee of the whole Schedule of Proposed Amendments**

**Annexure IV Committee of the whole Reporting Progress Form**

**Annexure V Standard Form of a Motion**

**Annexure VI Standard Statement (Request)**

**Annexure VII Standard Order Paper**

## ANNEXURE I: NOMINATION PAPER – CANDIDATES FOR ELECTION AS SPEAKER

COUNTY ASSEMBLY OF ..... Nth ..... ASSEMBLY



### NOMINATION PAPER FOR ELECTION TO THE OFFICE OF SPEAKER OF THE COUNTY ASSEMBLY OF KIRINYAGA

PART A: CANDIDATE PERSONAL INFORMATION			
Last Name		Other Names	
Postal Address		Mobile Phone Number	
Email		Phone Number	
Gender		Date of Birth	
Occupation			

PART B: PROPOSED AND SECONDED BY
----------------------------------

a) Proposer

First Name .....

Other Names .....

b) Second

First Name .....

Other Names .....

We the undersigned having been duly elected to the County Assembly of ..... do hereby certify that, of our personal knowledge, the candidate named above is not a Member of the County Assembly of ..... is willing to serve in the office of Speaker of the County Assembly and is qualified to be elected as a Member of the County Assembly under Article 193 of the Constitution of Kenya. We further confirm that we have not nominated any other candidate for the position of Speaker of the County Assembly of.....

Signature

• Proposer..... Date .....

• Second ..... Date .....

#### CANDIDATE'S CONSENT TO NOMINATION

I..... do hereby consent to my nomination as a candidate for election as Speaker of the County Assembly of ..... and attach herewith my curriculum vitae and relevant supporting documents.



Signature of Candidate..... Date.....

**CERTIFICATE OF THE CLERK OF THE COUNTY ASSEMBLY**

I certify that this nomination paper was delivered to me at my office  
by.....  
at..... a.m./p.m.<sup>1</sup> on the ..... day of..... 2017

Signature of the Clerk.....

Clerk of the County Assembly

<sup>1</sup> A nomination paper must be delivered duly completed by the candidate and supported by two Members of the County Assembly to the Clerk of the County Assembly at his office at least forty-eight hours before the time appointed at which the County Assembly is to meet to elect a Speaker

**IN THE MATTER OF THE OATHS AND STATUTORY DECLARATION ACT****(CAP 15 OF THE LAWS OF KENYA)****AND****IN THE MATTER OF THE ELECTION OF THE SPEAKER OF THE COUNTY ASSEMBLY OF****.....****AFFIDAVIT OF CANDIDATE FOR ELECTION AS SPEAKER OF THE COUNTY ASSEMBLY**

1. I..... of P. O Box ..... in the republic of Kenya hereby make oath and state as follows:-
2. THAT I am an adult Kenyan citizen of sound mind and the holder of National Identity Card/Passport Number..... and competent to swear this Affidavit.
3. THAT I have been nominated to stand for election to the office of Speaker of the County Assembly.
4. THAT I am registered as a voter in..... Constituency and that my Elector's number issued by the Independent Electoral and Boundaries Commission is.....
5. THAT I satisfy the educational, moral and ethical requirements prescribed by the Constitution and by other legislation for election as a Member of County Assembly.
6. THAT I am not a person who is disqualified from being elected as a Member of County Assembly under Article 193(2) of the Constitution.
7. THAT I swear this affidavit in support of my nomination to stand for election to the office of Speaker of the County Assembly of.....
8. THAT all what is deponed herein is true to the best of my knowledge, information and belief.

**SWORN** at..... ]

on this..... day of 2017 ]

by the said ..... ] .....

BEFORE ME

DEPONENT

]

]

]

**(JUDGE/MAGISTRATE/COMMISSIONER FOR OATHS)**



## ANNEXTURE II: GENERAL FORM OF A PUBLIC PETITION

### **I/We, the undersigned,**

(Here, identify in general terms who the petitioner or petitioners are, for example, citizens of Kenya, residents of province or region, workers of industry, etc.)

### **DRAW the attention of the assembly to the following:**

(Here, briefly state the reasons underlying the request for the intervention of the assembly by outlining the grievances or problems by summarizing the facts that the petitioner or petitioners wish the assembly to consider.)

### **THAT**

[Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give satisfactory response.]

### **THAT**

[Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.]

### **HEREFORE your humble petitioner(s) pray that assembly—**

(Here, set out the prayer by stating in summary what action the petitioners wish the assembly to take or refrain from.)

<b>Name of petitioner</b>	<b>Full Address</b>	<b>National ID. or Passport No.</b>	<b>Signature/Thumb impression</b>
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

(Here, repeat the summary in first page)

<b>Name of petitioner</b>	<b>Signature/Thumb impression</b>
.....	.....
.....	.....
.....	.....

(Subsequent Pages)

**\* This form may contain such variations as the circumstances of each case may require.**



## **ANNEXTURE III: COMMITTEE OF THE WHOLE SCHEDULE OF PROPOSED AMENDMENTS**

**REPUBLIC OF KENYA**

**THE ..... ASSEMBLY**

**..... ASSEMBLY**

**(..... SESSION)**

**THE ..... BILL, 20..... (ASSEMBLY BILL NO. .... OF 20.....)**

**COMMITTEE OF THE WHOLE ASSEMBLY (DATE)**

**Clause 3:**

**Clause 4:**

**Clause 5:** Proposed Amendment by Hon. ....

**Clause 6:**

**New Clause 1A:**

**New Clause 7A:** Proposed New Clause by Hon. ....

**Schedule:**

**New Second Schedule:**

**Clause 2:**

**Long Title:**

**Clause 1:**

## ANNEXTURE IV: COMMITTEE OF THE WHOLE REPORTING PROGRESS FORM

<b>MOVER OF THE BILL:</b>	To move that	Chairperson, I beg to <u>move</u> that the committee do report to the assembly its consideration of <b>the ..... Bill, 20..... (assembly bill No. .... of 20.....)</b> and its approval thereof without amendments.
<b>CHAIRPERSON:</b>	To put the question	I will <u>put</u> the question, which is that the committee do report to the assembly in consideration of <b>the ..... Bill, 20..... (assembly bill No. .... of 20.....)</b> and its approval thereof <b>with/without amendments</b> .
<b>CHAIRMAN IMMEDIATELY LEAVES THE CHAIR AND SPEAKER RESUMES HIS CHAIR</b>		
<b>CHAIRPERSON:</b>	To report to the house	Hon. Speaker Sir, I beg to <u>report</u> that the committee of the whole assembly has considered <b>the ..... Bill, 20..... (assembly bill No. .... of 20.....)</b> and its approval thereof <b>with/without amendments</b> .
<b>MOVER OF THE BILL:</b>	To move agreement to report	Hon. Speaker, Sir, I beg to <u>move</u> that the assembly do agree with the committee in the said report.
<b>SPEAKER:</b>	Proposes adoption of report	I will <u>propose</u> the question, which is that the assembly do agree with the committee in the said report;
<b>SPEAKER:</b>	Puts question for adoption Report	<i>I will <u>put</u> the question, which is that the assembly does agree with the committee in the said report.</i>  <i>"As many, etc".....</i>
<b>MOVER OF THE BILL:</b>	To move the third reading	Mr. Speaker, Sir, I beg to move that <b>the ..... bill, 20..... (assembly bill No. .... of 20.....)</b> be now read a third time.
<b>SPEAKER:</b>	Proposes question of third reading	I will <u>propose</u> the question, which is that <b>the ..... bill, 20..... (assembly bill No. .... of 20.....)</b> be now read a third time.
<b>SPEAKER:</b>	Puts question of third reading	I will <u>put</u> the question, which is that <b>the ..... bill, 20..... (assembly bill No. .... of 20.....)</b> be now read a third time;  <i>"As many, etc".....</i>  <i>Clerk reads the bill a third time (long title)</i>



**ANNEXTURE V: STANDARD FORM OF A MOTION**

ASSEMBLY  
LOGO

COUNTY GOVERNMENT OF \_\_\_\_\_

SECOND ASSEMBLY

(FIRST SESSION)

THE \_\_\_\_\_ COUNTY ASSEMBLY

MOTION - (Hon. \_\_\_\_\_, MCA)

THAT, aware that \_\_\_\_\_ (*summarize subject matter of motion in brief/background*)

FURTHER AWARE that \_\_\_\_\_ (*give synopsis of subject matter of Motion*);

NOTING THAT \_\_\_\_\_ (*any key observations that can be made from subject matter and how it has been dealt with or should be dealt with*)

DEEPLY CONCERNED that \_\_\_\_\_ (*additional information to note which buttresses the subject of the Motion*);

This ASSEMBLY URGES/RESOLVES that \_\_\_\_\_ (*insert resolution of Motion from subject matter*).

The Hon. \_\_\_\_\_, MCA

Member for \_\_\_\_\_ Ward

Date: \_\_\_\_\_

(*Serialization is any*)

SAMPLE COUNTY

**ANNEXTURE VI: STANDARD STATEMENT (REQUEST)**

ASSEMBLY  
LOGO

**SAMPLE COUNTY ASSEMBLY**  
**SECOND ASSEMBLY - FIRST SESSION**

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**REQUEST FOR STATEMENTS**

---

**Hon. Speaker,**

Pursuant to Standing Order \_\_\_\_\_, I wish to request for a statement from the Chairperson of the Sectoral/ Select Committee on \_\_\_\_\_ regarding the \_\_\_\_\_ (*subject of request in summary*).

Hon. Speaker, \_\_\_\_\_ (*explain subject of request in detail, keeping to the main issues but detailing what the problem is and efforts if any to address the problem which have failed*).

Hon. Speaker, in the statement, the Chairperson should inquire into and report on:–

- i) Steps taken to \_\_\_\_\_ (*list issues you want dealt with*); and
- ii) Measures being taken to \_\_\_\_\_ (*detail questions that seek to answer subject matter sufficiently*).

**Hon. \_\_\_\_\_, MCA**

**Member for \_\_\_\_\_ Ward**

**Date: \_\_\_\_\_**

*Second Assembly*

*First Session*

**ANNEXTURE VII: STANDARD ORDER PAPER**

(No. of sitting\_\_\_\_\_ )

(Page number\_\_\_\_\_)

ASSEMBLY  
LOGO

**REPUBLIC OF KENYA****SAMPLE COUNTY ASSEMBLY****SECOND ASSEMBLY – (FIRST SESSION)****ORDERS OF THE DAY****(DAY) (MONTH) (DATE), (YEAR) AT (TIME) AM/P.M.****ORDER OF BUSINESS****PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements
- 8\*. MOTION – (Chairperson of Select Committee on Budget and Appropriations)

**THAT**, this Assembly adopts **THE REPORT OF THE SELECT COMMITTEE ON BUDGET AND APPROPRIATIONS ON THE BUDGET ESTIMATES FOR THE SAMPLE COUNTY GOVERNMENT AND COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2014/2015**, laid on the Table of the Assembly on Tuesday 17<sup>th</sup> June, 2014.

(No. \_\_\_\_\_)      (DAY) (MONTH) (DATE), (YEAR)      (\_\_\_\_\_)**NOTICE**

The Assembly resolved on Wednesday, February 19, 20\_\_ as follows:–

(List here Limitation Motions and any other Notices)

\_\_\_\_\_  
\* Denotes Orders of the Day





**SOCIETY OF CLERKS AT THE TABLE-KENYA**

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