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PARLIAMENTARY POWERS AND PRIVILEGES ACT

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NO. 29 OF 2017

PARLIAMENTARY POWERS AND PRIVILEGES ACT

[Date of assent: 21st July, 2017.]

[Date of commencement: 16th August, 2017.]

AN ACT of Parliament to give effect to Article 117 of the Constitution; to provide for the powers, privileges and immunities of Parliament, its committees, the leader of the majority party, the leader of the minority party, the chairpersons of committees and members; to make provision regulating admittance to and conduct within the precincts of Parliament; and for connected purposes

[Act No. 29 of 2017.]

PART I — PRELIMINARY

1. Short title

This Act may be cited as the Parliamentary Powers and Privileges Act, 2017.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Clerk**” means the Clerk of the National Assembly or the Clerk of the Senate;

“**committee**” means a committee of the National Assembly, a committee of the Senate or a joint committee of the Houses of Parliament;

“**Committee of Powers and Privileges**” means a Committee established under section 15;

“**Houses of Parliament**” means the National Assembly and the Senate;

“**journal**” means the minutes and the official records of the Houses of Parliament whether audio, electronic or any other form including all papers and accounts howsoever presented to or belonging to the Houses of Parliament, or any other records of the proceedings of Parliament;

“**Member**” means a member of the National Assembly or of the Senate;

“**member of staff**” means an officer of the Parliamentary Service Commission, any person acting under the orders of the Speaker or any police officer on duty within the precincts of Parliament;

“**national security organ**” means a national security organ specified under Article 239(1) of the Constitution;

“**Parliament**” means the Parliament of Kenya established under Article 93 of the Constitution;

“**Parliamentary Service Commission**” means the Parliamentary Service Commission established under Article 127 of the Constitution;

“**proceedings**” means—

- (a) all things said, done or written by a Member or by any officer of either House of Parliament or by any person ordered or authorised to attend before such House or its committees, in or in the

presence of such House or its committees and in the course of a sitting for the purpose of transacting the business of the House or its committees; and

- (b) all things said, done or written between Members or between Members and officers of either House of Parliament for the purpose of enabling any Member or any such officer to carry out his or her functions.

“Speaker” means the Speaker of the National Assembly or of the Senate, and includes the Deputy Speaker, or a member presiding at a sitting of a House of Parliament under Article 107(1)(c) of the Constitution; and

“Standing Orders” means the Standing Orders of a House of Parliament for the time being in force.

PART II — PRECINCTS OF PARLIAMENT

3. Description of precincts of Parliament

(1) The precincts of Parliament shall comprise the area of land and every building or part of a building under Parliament’s control including—

- (a) the chambers in which the proceedings of Parliament are conducted including the galleries and lobbies of the chambers;
- (b) all the parts of the buildings in which the chambers are situated including the entrances, forecourts, yards, gardens, enclosures or open spaces appurtenant thereto;
- (c) committee rooms and other meeting places provided or used for Parliament’s purposes;
- (d) the offices of Parliament including the places within such offices that are provided for the use of members, members of staff, members of the public and the press;
- (e) places provided for the use or accommodation of the members, members of the public and representatives of the press used in connection with the proceedings of Parliament or its committees;
- (f) all other buildings or parts of a building provided or used in connection with the proceedings of Parliament or its committees while so used by Parliament including such premises as may be leased by Parliament; and
- (g) such other areas as the Speaker may designate, in writing, for the purpose of parliamentary business.

(2) Where Parliament or a committee convenes outside the premises ordinarily used for its sittings, this Act shall apply as if the premises where Parliament or the committee is sitting were within the precincts of Parliament.

4. Presence of an officer of a national security organ in precincts of Parliament

An officer of a national security organ may, with the permission and authority of the Speaker of the relevant House—

- (a) enter upon or remain in the precincts of Parliament for the purpose of performing any functions of that national security organ; or
- (b) perform any other function within the precincts of Parliament.

5. Access to precincts of Parliament

(1) A member of the public may, subject to this Act, the Standing Orders and such orders and directions as may be issued by the Speaker, access such places within the precincts of Parliament as may be specified.

(2) The right of access to Parliament under Article 118 shall be limited as specified under this section for the purposes of facilitating the orderly conduct of the business and the affairs of Parliament.

6. Freedom from arrest for civil debt during session

(1) A Member shall not be liable to arrest for any civil debt except a debt the contraction of which constitutes a criminal offence, whilst going to, attending at or returning from a sitting of a House of Parliament or any committee.

(2) The right of access to justice under Article 48 of the Constitution shall be limited as specified under this section for the purposes of facilitating the conduct of business and the affairs of Parliament.

7. Service of civil process

(1) No process issued by any court in Kenya in the exercise of its civil jurisdiction shall be served or executed—

- (a) within the precincts of Parliament while either one or both Houses are sitting; or
- (b) through the Speaker or any officer of Parliament—
 - (i) unless it relates to a person employed within the precincts of Parliament or to the attachment of a member's salary; or
 - (ii) if the subject matter relates to a member or members exercising their personal duties.

(2) The right of access to justice under Article 48 of the Constitution shall be limited as specified under this section for the purposes of facilitating the conduct of business and the affairs of Parliament.

8. Assembling, demonstrating and picketing

(1) The Speaker may designate areas proximate to the precincts of Parliament where members of public may, pursuant to Article 37 of the Constitution, assemble, demonstrate, picket or present memoranda to Parliament.

(2) Any assembling, demonstration, picketing and presentation of memoranda to Parliament under subsection (1) shall be in accordance with such guidelines as the Speaker may issue.

(3) A person who assembles, demonstrates or pickets contrary to the provisions of this section may be removed from the precincts of Parliament on the direction of a Speaker, a duly authorized member of staff or a police officer.

(4) The right of assembly, demonstration, picketing and petition under Article 37 of the Constitution shall be limited as specified under this section for the purposes of facilitating the orderly conduct of business and affairs of Parliament.

PART III — PRIVILEGES AND IMMUNITIES OF MEMBERS**9. Freedom of speech in Parliament**

(1) There shall be freedom of speech and debate in Parliament as provided for in Article 117 of the Constitution.

(2) A member shall enjoy the same privileges and immunities in a joint sitting of the two Houses of Parliament as are applicable in each of the respective Houses.

(3) The right of access to justice under Article 48 of the Constitution shall be limited as specified under this Part—

- (a) for the purposes of facilitating the immunities of the Houses and the committees of Parliament in accordance with Article 117 of the Constitution;
- (b) for facilitating the freedom of speech and debate as set out in Article 117 of the Constitution.

10. Postponement of disqualification to enable appeal

Where any Member has been sentenced to an imprisonment for a period of at least six months, adjudged to be of unsound mind, adjudged bankrupt, or is found in accordance with any law to have misused or abused a State office or a public office or in any way to have contravened Chapter Six of the Constitution, the decision shall not have effect for the purposes of Article 103 (1)(g) of the Constitution until all possibility of appeal or review of the relevant decision or sentence has been exhausted.

11. Proceedings not to be questioned in courts

No proceedings or decision of Parliament or the Committee of Powers and Privileges acting in accordance with this Act shall be questioned in any court.

12. Immunity from legal proceedings

(1) No civil or criminal proceedings shall be instituted against any Member for words spoken before, or written in a report to Parliament or a Committee, or by reason of any matter or thing brought by him or her therein by a report, petition, Bill, resolution, motion or other document written to Parliament.

(2) No civil suit shall be commenced against the Speaker, the leader of majority party, the leader of minority party, chairpersons of committees and members for any act done or ordered by them in the discharge of the functions of their office.

(3) The Clerk or other members of staff shall not be liable to be sued in a civil court or joined in any civil proceedings for an act done or ordered by them in the discharge of their functions relating to proceedings of either House or committee of Parliament.

13. Giving evidence of proceedings

(1) No Member or member of staff, and no person employed to take minutes of evidence before Parliament or any committee, shall give evidence in any court, tribunal or elsewhere in respect of the contents of those minutes of evidence or of the contents of any document laid before Parliament or that committee or in respect of any proceedings or examination held before Parliament or that committee without special leave first obtained.

(2) The special leave referred to in subsection (1) may be granted during a recess or adjournment by a Speaker, or in the absence or other incapacity of the Speaker, the Clerk of the relevant House.

(3) Subject to the provision of Article 35 of the Constitution and to any written law relating to data protection and freedom of information for the time being in force, the special leave referred to in subsection (1) may be declined where—

- (a) the request is unreasonable in the circumstances;

- (b) the information requested is at a deliberative stage by Parliament or committee;
- (c) there is failure to pay such fee as may be reasonably required in the circumstances; or
- (d) the applicant fails to satisfy any confidentiality requirements by Parliament.

(4) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section for purposes of facilitating freedom of speech and debate as contemplated under Article 117 of the Constitution.

14. Determination of a question arising in the House on right or power of Parliament

Where at any time any question arises in a House or in a committee in regard to—

- (a) the right or power of Parliament or a committee to hear, admit or receive oral evidence;
- (b) the right or power of Parliament or a committee to peruse or examine any paper, book, record or document or to summon, direct or call upon any person to produce any paper, book, record or document before Parliament or committee; or
- (c) the right or privilege of any person (including a member of the Parliament or committee) to refuse to produce any paper, book, record or document or to lay any paper, book, record or document before Parliament or committee,

that question shall, subject to the preceding provisions of this Act, and except in so far as express provision is made in those provisions for the determination of that question, shall be determined in accordance with the usages, forms, precedence, customs, procedures and traditions of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya.

PART IV — COMMITTEE OF POWERS AND PRIVILEGES

15. Committee of Powers and Privileges

(1) There is established, for each House of Parliament, a committee known as the Committee of Powers and Privileges consisting of—

- (a) in respect of the National Assembly—
 - (i) the Speaker who shall be the chairperson of the Committee; and
 - (ii) fourteen other members of the House appointed in accordance with the Standing Orders of the Assembly;
- (b) in respect of the Senate—
 - (i) the Speaker who shall be the chairperson of the Committee; and
 - (ii) six other members of the House appointed in accordance with the Standing Orders of the Senate.

(2) The quorum of the Committee shall—

- (a) in the case of the National Assembly, be the Speaker and four other members; and
- (b) in the case of the Senate, be the Speaker and two other members.

(3) Subject to this Act and the Standing Orders of the relevant House of Parliament, the Committee shall regulate its own procedure.

(4) The functions of the Committee of Powers and Privileges shall be to—

- (a) inquire into the conduct of a member whose conduct is alleged to constitute breach of privilege in terms of section 16;
- (b) perform such other functions as may be specified in this Act.

(5) The Committee of Powers and Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a Member whose conduct is alleged to constitute breach of privilege in terms of section 16, within fourteen days of receipt of complaint.

(6) The Committee of Powers and Privileges shall, within fourteen days of the conclusion of an enquiry, table its findings in the relevant House of Parliament together with such recommendations as it considers appropriate.

(7) Each House of Parliament shall consider the report and recommendations by the Committee of Privileges in the manner set out in the Third Schedule.

PART V — BREACHES OF PRIVILEGES

16. Conduct constituting breach of privilege

The Committee of Powers and Privileges may find a Member to be in breach of privilege if the Member—

- (a) contravenes sections 25, 26 or 28;
- (b) commits an act mentioned in section 27(1)(a), (b) or (2) and (3)(d), (e), (f) or (g);
- (c) wilfully fails or refuses to obey any rule, order or resolution of Parliament;
- (d) contravenes any provision of the Speaker's orders issued under section 38 of this Act; or
- (e) conducts himself or herself in a manner which, in the opinion of the Committee on Powers and Privileges, is intended, or is likely to reflect adversely on the dignity or integrity of Parliament, or of the Members or to be contrary to the best interests of Parliament or its Members.

17. Determination of breach of privilege

(1) The relevant House of Parliament shall have all the powers necessary for enquiring into and pronouncing upon any act or matter constituting breach of privilege in terms of section 16.

(2) An enquiry by the relevant House of Parliament into a matter shall not preclude criminal investigation or criminal proceedings against a Member in connection with the matter concerned.

(3) Where the relevant House of Parliament finds that a Member has committed a breach of privilege, the relevant House of Parliament may, in addition to any other penalty to which the Member may be liable under this Act or any other law, impose any or more of the following penalties—

- (a) a formal warning;

- (b) a reprimand;
- (c) an order to apologize to the House or a person in a manner to be recommended by the Committee of Powers and Privileges;
- (d) the withholding, for a specific period of time, of the member's right to the use or enjoyment of any specified facility provided to Members by Parliament;
- (e) the removal or suspension for a specified period of time of the Member from any parliamentary position occupied by the Member;
- (f) such fine in terms of the Member's monthly salary and allowances as the House may determine;
- (g) the suspension of the Member for such period as the House may decide, whether or not Parliament or any of its committees is scheduled to meet during that period;
- (h) vacation of seat pursuant to Articles 75(2)(b) and 103(1)(c) of the Constitution.

(4) Where the relevant House of Parliament finds a member has committed a breach of privilege, the relevant House of Parliament may, where appropriate, instead of or in addition to the imposition of a penalty under subsection (3), refer the matter to the Director of Public Prosecutions.

(5) A fine imposed under subsection (3) shall—

- (a) be paid by the member into such bank account of Parliament as shall be specified by the accounting officer of Parliament;
- (b) be deducted from the Member's salary; or
- (c) where it is not recovered under paragraphs (a) or (b), be recovered by means of a civil action in court.

(6) A member who has been suspended under subsection 3 (g) shall leave the precincts of Parliament and shall not, during the period of suspension, without the written permission of the Speaker—

- (a) enter the precincts for whatever purpose; or
- (b) participate in any activity of Parliament or a committee of Parliament.

(7) The protection of right to property under Article 40 and the right of access to justice under Article 48 of the Constitution shall be limited as specified under this Part—

- (a) for the purposes of protecting the privileges and immunities of the Houses and committees of Parliament conferred by this Act in accordance with Article 117 of the Constitution;
- (b) for facilitating the orderly conduct of business and affairs of Parliament.

PART VI — SUMMONING OF WITNESSES

18. Invitation and summoning of witnesses

(1) Parliament or its committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person and, in this respect, Parliament and its committees shall have the same powers as the High Court as specified under Article 125 of the Constitution.

(2) A summons issued under subsection (1) shall be issued by the Clerk on the direction of—

- (a) the Speaker; or
- (b) the chairperson of a committee acting in accordance with a resolution of the committee.

(3) The general form of a summons shall be as set out in the First Schedule.

(4) The summons shall be served by a member of staff or a police officer who is duly authorized by the Clerk by delivering a copy of the summons—

- (a) to the person mentioned in the summons; or
- (b) at that person's usual or last known place of residence, employment or business or left with a person who is over the age of eighteen years and who resides or is employed at that place.

(5) Where the summons is to be served on a corporation, the summons may be served—

- (a) on the secretary, director or other officer authorised by the corporation; or
- (b) if the officer serving the summons is unable to find any of the officers of the corporation mentioned in paragraph (a)—
 - (i) by leaving it at the registered office of the corporation;
 - (ii) by sending it by prepaid registered post or by a licensed courier service provider approved by the court to the registered postal address of the corporation;
 - (iii) if there is no registered office and no registered postal address of the corporation, by leaving it at the place where the corporation carries on business; or
 - (iv) by sending it by registered post to the last known postal address of the corporation.

(6) The serving officer in all cases in which summons has been served under this section shall swear and annex or cause to be annexed to the original summons an affidavit of service stating the time when and the manner in which summons was served and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of summons.

(7) The affidavit of service shall be in the form set out in the Second Schedule with such variations as circumstances may require.

(8) Any person who knowingly swears a false affidavit of service commits the offence of perjury and may in addition be subject to such disciplinary action as the Parliamentary Service Commission may determine.

(9) A return by a person who serves a summons under this section shall be *prima facie* proof of the service of the summons.

(10) A person requested or summoned in terms of this section by Parliament or a committee to attend a sitting of Parliament or committee shall be paid such amount of money as shall be approved by the Clerk as reimbursement for the expenses incurred.

19. Procedure if witness fails to appear

(1) Where a witness summoned does not appear, or appears but fails to satisfy the relevant House of Parliament or committee, the relevant House or Committee

may impose upon the witness such fine, not exceeding five hundred thousand shillings, having regard to the witness' condition in life and all the circumstances of the case.

(2) A person may pay the fine under subsection (1) to the Clerk of the relevant House.

(3) Parliament or its committee may order the arrest of a person who fails to honour a summons.

20. Examination of witnesses

Where Parliament or a committee requires that any information be verified or otherwise ascertained by the oral examination of a witness, Parliament or the committee may—

- (a) cause such witness to be examined on oath; and
- (b) require the witness to produce any document, paper, book or record in the possession or under the control of the witness which may have a bearing on the subject of the inquiry

21. Privileges of witnesses

(1) Every person who is summoned to give evidence or to produce a document before Parliament or a committee shall be entitled to the same rights and privileges that are applicable to a witness before a court of law.

(2) A person who is being examined under oath or affirmation in terms of section 20 shall be required to answer any question put to the person in connection with the subject of the inquiry and to produce any document or information that the person is requested to produce under that section despite the fact that the answer or the document would incriminate or expose the person to criminal or civil proceedings in a court of law.

(3) Evidence given under oath or affirmation by a person before Parliament or a committee shall not be used against the person in a court or other place outside Parliament except in criminal proceedings where the person concerned stands trial on a charge of perjury or a charge contemplated under section 27(1)(c) or (3)(g).

(4) The right to fair hearing under Article 50 of the Constitution shall be limited as specified under this section for the purposes of advancing the freedom of speech and debate set out in Article 117 of the Constitution.

22. Objection to answer question or to produce papers

Where any person ordered to attend to give evidence or to produce any paper, book, record or document before Parliament or a committee refuses to answer any question or to produce the paper, book, record or document on the ground that it is of a private nature and does not affect the subject of inquiry, the Speaker may excuse the answering of the question or the production of the paper, book, record or document, or may order the answering or production thereof.

23. Duty of public officers to give evidence

(1) No public officer shall refuse to—

- (a) produce before Parliament or a committee any paper, book, record or document, or
- (b) give evidence before Parliament or a committee, relating to the correspondence of any national security organs as set out under Article 239 of the Constitution, or any independent commission set

out under Article 248 of the Constitution or any public office as defined under Article 260 of the Constitution.

(2) Any public officer who contravenes subsection (1) commits an offence.

(3) Where a House passes a resolution that a public officer has contravened subsection (1), the resolution of the House shall constitute a ground for removal from office of the public officer in accordance with the Constitution or any applicable law.

PART VIII — PUBLICATIONS AND BROADCASTING

24. Protection in respect of publications

(1) A person shall not be liable to civil or criminal proceedings in respect of the publication of any journal by order or under the authority of Parliament or a committee.

(2) A Member or a member of staff shall not be liable to civil or criminal proceedings in respect of—

- (a) the publication of a document that has been submitted to or is before Parliament or a committee;
- (b) any publication or information given out within the course duty as a Member or member of staff.

(3) The right of access to justice under Article 48 of the Constitution shall be limited as specified under this section for the purposes of facilitating—

- (a) the conduct of business and the affairs of Parliament;
- (b) the attainment of freedom of speech and debate in Parliament in accordance with Article 117 of the Constitution.

25. Unauthorized publishing

(1) A person shall not publish or tender in evidence—

- (a) any journal if the publication of that journal is prohibited by or in terms of the Standing Orders or an order or resolution of Parliament;
- (b) any journal purporting that it has been published under the authority of Parliament or a committee or the Speaker while it has not been published under such authority;
- (c) any journal purporting that it is a verbatim account of the proceedings of Parliament or a committee while it is not such account.

(2) In any civil or criminal proceedings instituted for publishing any extract from or abstract of any journal referred to in subsection (1), if the court is satisfied that the extract or abstract was published bona fide and without malice, judgment or verdict, as the case may be, shall be entered for the defendant or accused.

(3) The right of access to justice under Article 48 of the Constitution shall be limited as specified under this section for the purposes of facilitating—

- (a) the conduct of business and the affairs of Parliament;
- (b) the attainment of freedom of speech and debate in Parliament in accordance with Article 117 of the Constitution.

PART VIII — ENFORCEMENT

26. Prohibited acts in respect of Parliament and its members

(1) A person shall not—

- (a) assault, obstruct, molest or insult any member proceeding to, being within or leaving the precincts of Parliament, or endeavour to compel any member by force, insult or menace to declare himself or herself in favour of or against any proposition or matter pending or expected to be brought before Parliament or any committee;
- (b) assault, interfere with, molest, resist or obstruct any member of staff while in the execution of his or her duty;
- (c) assault or threaten a member or unlawfully deprive a member of any benefit on account of the member's conduct in Parliament;
- (d) while Parliament or a committee is sitting, create or take part in any unlawful disturbance which interrupts or is likely to interrupt the proceedings of Parliament or any committee while Parliament or the committee is sitting; or
- (e) fail or refuse to comply with an instruction by a duly authorized member of staff or a police officer regarding—
 - (i) the presence of the public in the precincts of Parliament including a meeting within the precincts of Parliament; or
 - (ii) the possession of any article, including a firearm, within the precincts.

(2) A person or a member who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding two years or to both.

27. Offences relating to witnesses

(1) A person commits an offence where the person—

- (a) having been duly summoned in terms of section 18 fails, without sufficient cause to—
 - (i) attend at the time and place specified in the summons; or
 - (ii) remain in attendance until excused from further attendance by the person presiding at the inquiry;
- (b) when called upon under section 20, refuses to be sworn in or to make an affirmation as a witness; or
- (c) fails or disobeys without sufficient cause to—
 - (i) answer fully and satisfactorily all questions lawfully put to the person under section 20;
 - (ii) produce any document, paper, book or record in the person's possession, custody or control which the person has been required to produce under section 20.

(2) A person who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

(3) A person commits an offence where the person—

- (a) threatens, obstructs, assaults or insults a member of staff or police officer carrying out service of summons issued under this Act;
- (b) uses abusive language directed at a member, a committee or a House of Parliament;

- (c) threatens or obstructs another person in respect of evidence to be given before Parliament or a committee;
- (d) induces another person to—
 - (i) refrain from giving evidence to or to produce a document before Parliament or a committee; or
 - (ii) give false evidence before Parliament or a committee;
- (e) assaults or penalizes or threatens another person or deprives that person of any benefit on account of the giving or proposed giving of evidence before Parliament or a committee;
- (f) with intent to deceive or mislead Parliament or a committee, produces a false, untrue, fabricated or falsified document; or
- (g) wilfully furnishes Parliament or a committee with information which is false or misleading or makes a statement before Parliament or committee that is false or misleading.

(4) A person who commits an offence under subsection (3) is liable, on conviction, to a fine not exceeding five hundred thousand or a term of imprisonment not exceeding one year or to both such fine and imprisonment.

28. Improper influence of members

(1) A person shall not, by fraud, intimidation, force, insult or threat of any kind, or by the offer or promise of any inducement or benefit of any kind, or by any other improper means—

- (a) influence a member in the performance of the member's functions as a member;
- (b) induce a member to be absent from Parliament or a committee at a particular time; or
- (c) attempt to compel a member to declare himself or herself in favour or against a matter pending before or proposed or expected to be submitted to Parliament or a committee.

(2) A member shall not solicit, receive or accept any fee, compensation, gift, reward, favour or benefit of any kind for the member or another person for in respect of—

- (a) voting in any particular manner or not voting on a matter before Parliament;
- (b) promoting or opposing anything pending before or proposed or expected to be submitted to Parliament; or
- (c) making a representation to Parliament.

(3) A person who contravenes this section commits an offence.

29. Duty of court Registrar

Where a member has been convicted of an offence and sentenced to a period of imprisonment of six months or more without the option of a fine, the Registrar of the relevant court shall inform the Speaker of—

- (a) the nature of the offence and the sentence imposed; and
- (b) any appeal that is lodged against the conviction or the sentence and the outcome of the appeal.

30. Breach to constitute gross misconduct

A State officer who is convicted of an offence under this Act shall be deemed to have committed an act of gross misconduct within the meaning of Article 251(1)(b) of the Constitution.

31. Offences relating to access to precincts of Parliament

(1) A person commits an offence where the person—

- (a) enters or attempts to enter a Chamber of Parliament or the precincts of Parliament in contravention of section 5 of this Act;
- (b) fails or refuses to withdraw from the precincts of Parliament when ordered to do so; or
- (c) contravenes any order made under this Act regulating the admittance of the public or the conduct of the public within the precincts of Parliament.

(2) A person who commits an offence under subsection (1) shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

32. General penalty

A person convicted of an offence under this Act for which no penalty is provided shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding two years or to both.

33. Officers of a House of Parliament to have powers of police officer

(1) Every officer of a House of Parliament shall, for the purposes of this Act and of the application of the provisions of the criminal law, have all the powers and enjoy all the privileges of a police officer.

(2) In this section, “officer of a House of Parliament” means any officer acting within the precincts of Parliament under the orders of the Speaker.

34. Offences cognizable

Every offence under this Act shall be cognizable to the police.

PART IX — MISCELLANEOUS**35. Protection of members of public**

(1) A person, other than a Member, who is aggrieved by a statement or a remark made by a Member or a witness in or before Parliament or committee about that person may submit a written request to the Clerk to have a response by the person to the statement or remark recorded and published in a journal or record of Parliament.

(2) The Committee of Powers and Privileges of the relevant House of Parliament shall, subject to the Standing Orders, consider the request and recommend such measures as may be necessary to comply with Article 35 (2) of the Constitution.

36. Extension of time

(1) Despite the provisions of any other written law, where in a written law a time is prescribed for doing an act or taking a proceeding by a House of Parliament, the House may, by resolution, extend that time by a period not exceeding fourteen days.

(2) Where an extension of time is granted under subsection (1), the doing of all other acts consequential thereto shall be deemed to have been extended accordingly.

(3) The power of a House of Parliament contemplated under subsection (1), may be exercised—

- (a) only once in a session of Parliament in respect of a particular matter; and
- (b) only in exceptional circumstances to be certified by the Speaker of the relevant House.

37. Speaker's orders

(1) The Speaker of either House of Parliament may, from time to time, issue such orders as may be necessary or expedient for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, the orders may provide for—

- (a) the admittance of members of the public to the precincts of Parliament;
- (b) the deduction of any monies due to a member in respect of refreshments or other facilities made available to members within the precincts of Parliament;
- (c) the appropriate dress code for members.

(3) The Code of Conduct regulating the conduct of Members of the respective House of Parliament shall be as set out in the Fourth Schedule.

(4) The Clerk shall authenticate copies of orders made pursuant to this section and shall ensure that such orders are made available to each member and are conspicuously exhibited for the benefit of the public within the precincts of Parliament.

(5) For the purposes of Article 94(6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Speaker to give directions for the orderly conduct of Members, members of staff and the public generally within the precincts of Parliament;
- (b) the orders made under this section shall be of such nature, scope and within the limits as specified under this section;
- (c) the principles and standards applicable to the order and Code of Conduct made under this section are the usages, forms, precedence, customs, procedures and traditions of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya.

38. Repeal of Cap. 6 and transition

(1) The National Assembly (Powers and Privileges) Act (Cap. 6) is repealed.

(2) The repeal under subsection (1) shall not affect any privilege or immunity acquired under the repealed Act.

(3) Prior to the commencement of this Act, the National Assembly (Powers and Privileges) Act (now repealed) shall be deemed to have applied to the Senate, with the necessary modifications.

FIRST SCHEDULE

[Section 18(3).]

SUMMONS TO WITNESSES

To

Whereas your attendance is required to (state which House of Parliament or Committee) in relation to (state subject matter), you are hereby required (personally) to appear before the (state which House of Parliament or Committee) on the day of, 20, at o'clock in the forenoon and to bring with you (specify the information/document required to be produced).

Your reasonable travelling and subsistence allowance for one day will be reimbursed upon production of sufficient proof of expenditure. If you fail to comply with this order without lawful excuse, you will be subject to the consequences of non-attendance laid down in section 19 of this Act.

Given under my hand this day of, 20.....

Clerk of the Senate/National Assembly.

NOTICE: If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be delivered to the Clerk on or before the day and hour aforesaid.

SECOND SCHEDULE

[Section 18(7).]

AFFIDAVIT OF SERVICE OF SUMMONS

I of an officer of the Parliamentary Service Commission/police officer make oath and state as follows:

1. On 20..... at (time) I served the summons in this matter on at (place) by tendering a copy thereof to him/her and requiring a signature on the original. He/She signed/refused to sign the summons. He/She was personally known to me/ was identified to me by and admitted that he/she was the witness.

2. Not being able to find the witness on 20 at (time) I served the summons on (name) an adult member of the family of the witness who is residing with him/her.

3. Not being able to find the witness or any person on whom service could be made, on 20 at (time), I affixed a copy of the summons to the outer door of being the house in which he/she ordinarily resides/carries on business/personally works for gain. I was accompanied by who identified the house to me.

4. (Otherwise specify the manner in which the summons was served).

SWORN by the said

this day of, 20

Before me

Commissioner for Oaths/Magistrate.

THIRD SCHEDULE

[Section 15(7).]

CONSIDERATION OF REPORT BY THE
COMMITTEE OF POWERS AND PRIVILEGES

1. Every Report by the Committee of Powers and Privileges concerning any inquiry into the conduct of a Member shall, as soon as possible after it has been completed, be laid by a member of that Committee on the Table of the House.

2. If the Report does not recommend any disciplinary action there shall be no further proceedings whatsoever in respect thereof, other than (where necessary) further inquiry and Report by the Committee of Powers and Privileges.

3. (1) If the Report recommends any disciplinary action, a member of the Committee of Powers and Privileges shall as soon as possible after the report has been laid, but after giving at least one day's previous notice, move that the House adopts the Report.

(2) A Motion to adopt the Report shall be debated in the usual manner and in the open; except that—

- (a) in exceptional circumstances to be determined by the Speaker, strangers may be ordered to withdraw throughout the debate; and
- (b) no amendment may be moved, other than an amendment of the disciplinary action recommended by the Report or an amendment to the effect that the Report be referred back to the Committee of Powers and Privileges for further inquiry.

4. Where the House adopts any recommendation of the Report for disciplinary action, with or without amendment, the Speaker shall forthwith take action accordingly.

FOURTH SCHEDULE

CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

[Section 37(3).]

1. Application and Purpose

(1) This Code applies to and provides a framework of reference for Members of Parliament when discharging their duties and responsibilities.

(2) The purpose of this Code is to create public trust and confidence in Members of Parliament and to protect the integrity of Parliament.

2. Members bound by General Principles of Conduct

(1) Members are bound by the General Principles of Conduct whenever any of them performs the roles of either House of Parliament set out under Articles 95 and 96 of the Constitution.

(2) The General Principles of Conduct include—

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty; and
- (g) leadership.

3. Members to be faithful, conscientious and impartial

Members of the House shall—

- (a) be faithful and bear true allegiance to the people and the Republic of Kenya;
- (b) faithfully and conscientiously discharge their duties and obey, respect, uphold, preserve, protect and defend the Constitution and the rule of law;
- (c) proceed in a judicious manner when dealing with all persons in accordance with the Constitution and the laws and conventions of Parliament; and
- (d) promote unity among Kenyans, irrespective of race, tribe, colour, creed or sex.

4. Members to act in the public interest

Members of the House shall, in the conduct of their parliamentary duties, act in the public interest, and resolve any conflict between their personal interest and the public interest in favour of the public interest.

5. Members not to accept improper reward

Members of the House shall not—

- (a) accept or agree to accept any financial inducement as an incentive or reward for the performance of their duties;
- (b) seek to profit or profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services; or
- (c) incur a financial or other obligation that unduly influences the Member in the performance of his or her duties.

6. Members to register interests

(1) Members of the House shall—

- (a) register with the relevant Speaker all financial and non-financial interests that may reasonably influence their parliamentary actions;
- (b) before contributing to debate in the House or its Committees, or communicating with State Officers or other public servants, declare

any relevant interest in the context of parliamentary debate or the matter under discussion; and

- (c) observe any rules agreed of the House in respect of financial support for Members or the facilities of the House.

(2) A relevant interest is an interest that may be seen by a reasonable member of the public to influence the way in which a Member discharges his or her parliamentary duties.

(3) Members shall ensure that registered interests are accurate and updated within one month of any change in particulars.

7. Members to uphold the dignity of the House

A member of the House shall uphold the dignity and integrity of the House by—

- (a) promoting respect for the House and its institutions at all times;
- (b) ensuring that the member's non-parliamentary activities do not interfere with or compromise the member's official duties or bring the House into disrepute.

8. Members to treat others with respect

A member of the House shall treat other members with respect and strive to have cordial relations with all other members.

9. Members' official duties to take precedence

A member of the House shall ensure that parliamentary duties of the member take precedence over the member's other activities.

10. Members to abide by Code

Members undertake to abide by this Code upon taking the oath of office and at the start of each Parliament.

11. Members to comply with General Code

A member of the House shall comply with the requirements imposed under the General Leadership and Integrity Code set out in Part II of the Leadership and Integrity Act, 2012 (No. 19 of 2012).

12. Committee to enforce Code, prescribe penalties for breach

The Committee shall enforce this Code and have power to recommend penalties for its breach similar to penalties for breach of parliamentary privilege.
