



TIME IN LEGISLATION

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EXERCISE OF LEGISLATIVE POWERS

Article 109 of the Constitution

- (1) Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.
- (2) Any Bill may originate in the National Assembly.
- (3) A Bill not concerning county government is considered only in the National Assembly, and passed in accordance with Article 122 and the Standing Orders of the Assembly.
- (4) A Bill concerning county government may originate in the National Assembly or the Senate, and is passed in accordance with Articles 110 to 113, Articles 122 and 123 and the Standing Orders of the Houses.
- (5) A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.

BILLS CONCERNING COUNTY GOVERNMENTS

- Article 110 (5) - If both Houses pass the Bill in the same form, the Speaker of the House in which the Bill originated shall, within seven days, refer the Bill to the President for assent.
- Special Bills – Article 111 (3) - If a resolution in the National Assembly to amend or veto a special Bill fails to pass, the Speaker of the Assembly shall, within seven days, refer the Bill, in the form adopted by the Senate, to the President for assent.
- Ordinary Bills – Article 112 (2)- If, after the originating House has reconsidered a Bill referred back to it under clause (1) (b), that House passes the Bill as amended, the Speaker of that House shall refer the Bill to the President within seven days for assent; or rejects the Bill as amended, the Bill shall be referred to a mediation committee under Article 113.

- Mediation Committees - Article 113

(3) If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.

(4) If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.

PRESIDENTIAL ASSENT AND REFERRAL

Article 115

(1) Within fourteen days after receipt of a Bill, the President shall assent to the Bill; or refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.

- Similarly, the Governor assents to a Bill passed by the County Assembly 14 days upon receipt of the Bill from the Speaker of the County Assembly.

(5) If Parliament has passed a Bill under clause (4)—the appropriate Speaker shall within seven days re-submit it to the President; and the President shall within seven days assent to the Bill.

(6) If the President does not assent to a Bill or refer it back within the period prescribed in clause (1), or assent to it under (5) (b), the Bill shall be taken to have been assented to on the expiry of that period.

COMING INTO FORCE OF LAWS

- Article 116

(1) A Bill passed by Parliament and assented to by the President shall be published in the Gazette as an Act of Parliament within seven days after assent.

(2) Subject to clause (3), an Act of Parliament comes into force on the fourteenth day after its publication in the Gazette, **unless the Act stipulates a different date on or time at which it will come into force.**

(3) An Act of Parliament that confers a direct pecuniary interest on members of Parliament shall not come into force until after the next general election of members of Parliament.

(4) Clause (3) does not apply to an interest that members of Parliament have as members of the public.

WHO SUBMITS THE BILLS AFTER ASSENT FOR PUBLICATION?

- Parliament and County Assemblies cease taking responsibility for a Bill they have passed immediately the Bill has been assented to. It is hence the responsibility of the Executive to ensure that the Bill is published in accordance with the timelines set out in the Constitution and the County Governments Act.
- Upon assent by the President the Bill is handed over to the Attorney- General who ensures that the Bill is published within the timelines set out in the Constitution.
- Publication is a constitutional obligation and an integral stage in the legislative process.
- At the County level, the County Attorney is responsible for the publication of the Bill. The County Attorney is required to liaise with the Office of the Attorney-General and the Kenya Law Reform Commission to ensure that Bills passed by the County Assembly and assented to by the Governor are published within the timeline set out in the County Governments Act.

SELF EXECUTING POLICIES

- The nature of policies is such that some policies do not require enactment of legislation to facilitate their execution. These policies are known as self-executing policies.
- These types of policies lay out a clear administrative framework, mostly relying on the existing structures for their execution. It recognizes existing structures that are in turn accorded these additional functions to undertake.
- It is important to note that where such self-executing policies and legislation are adopted, care must be taken that the existing structures are, at least, brought into accord with the letter and spirit of the Constitution of Kenya, 2010. Chapter 13 thereof and in particular Article 232 on the values and principles of public service offer a good starting point.

•QUESTIONS???