

PUBLIC POLICY DIALOGUE & ADVOCACY



FORMULATING PUBLIC POLICY

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1. Introduction

The Business Advocacy Fund (BAF) provides support to Business Member Organisations (BMOs) in Kenya to advocate for a conducive business and investment climate policy environment. The support provided is mainly in the form of grants and technical assistance in respect of projects that target policy reforms for private sector growth and development.

For businesses and private sector to grow, there is need for effective and responsive policies. The public policy environment determines the extent to which the private sector develops. BMOs engagement in policy reforms is essential. As a result, BMOs need to have a good grasp of public policy process so as to engage constructively and meaningfully in public private dialogue. This workbook is prepared for the **Formulating Public Policy** unit, which is part of the **Public Process** module. This Unit is complementary to the Unit on Understanding public policy.

2. Learning objectives and outcomes

2.1 Learning Objectives

Formulating public policy provides a description of the process of formulating and reforming public policy. It primarily focuses on building a foundational understanding of the meaning and concepts associated with public policy, types of public policy, public policy process and public policy institutions.

2.2 Learning outcomes

On completion of the Unit, it is anticipated that you will:

- have gained an understanding of public policy process
- have acquired knowledge on how public policies are formulated
- be able to identify and explain the process of formulating policies
- have gained understanding of why, when and how policies are reformed
- have acquired knowledge on the role of various policy actors in formulating and reforming policy

3. Understanding policy formulation

Policy formulation may be understood to mean a specific stage of the policy process (as described below) or conceptually the process of developing legislation which would entail the first three stages of the policy process (agenda setting, policy formulation and policy adoption). Policy formulation also entails framing or drafting the content of policy measures or instruments in a policy document such as an Act of Parliament or a sessional paper. In this Unit, the concept of policy formulation will focus more on the process of formulating public policy rather than the actual technical drafting of a policy. In addition, the Unit covers key principles including criteria to be considered when selecting policy options and solutions, which is a main component of policy formulation.

4. Approaches to policy formulation

There are various approaches or models to policy formulation process. The approaches or models are shaped by perspectives, worldviews and values. There are various approaches or models that explain how policy formulation is influenced and shaped. This Unit shall consider three of the influential approaches or models as described by Knill & Tosun (2012: 71-95), which are structure-based models, institutional-based models and interest-based models:

4.1 Structure-based models

The structure-based model is based on premise that socioeconomic structure in society shapes public policy and institutions of policy making. The two main approaches under this model are the socioeconomic school and the cleavage approach.

4.1.1 Socioeconomic school

In the socioeconomic school, public policy responds to social and economic development problems with which a society is confronted. As society seeks to address developmental needs through economic and social transformation processes, socioeconomic stratification may arise as a result. This may lead to socioeconomic inequality for example unequal distribution of resources, wealth and economic opportunities. This may have an impact on social welfare related to family, gender relations, age groups and dynamics, health and workers among others. Consequently, there has been a need to adopt policies that respond to and reorganise socioeconomic relations in matters such as social welfare, health care and environmental protection among others. As society develops and becomes more complex, policies on government intervention in economic regulation, social welfare and care, equitable distribution of resources and public expenditures gain prominence. Globalisation and economic liberalisation have also created an impetus for governments to adopt policies to deal with resulting negative socioeconomic impact.

4.1.2 Cleavage approach

The cleavage approach is based on the understanding that socioeconomic problems exist in society and that they have an impact on the adoption of policy

choices that lead to existence of lasting divisions between social cleavages (social groups). Depending on the prevailing political system, political parties may adopt policy choices that identify with or seek to solve problems associated with specific social cleavages. The six common cleavages identified are

- **centre-periphery** – consists of social groups that support opposing views and perspectives on whether political power and administrative structures of the nation state should be centralised decentralised
- **state-church (or religion-state)** – consists of social cleavages that support preservation of the state-religion relationship while others support the separation between the religion and state. Policies related to health, human rights and family for example are determined by the respective social cleavages
- **rural-urban** – consists of the two social groups; one living in rural areas and dependent on traditional activities for livelihood such as subsistence agriculture, and the other group living in urban areas and dependent on more modern economic activities e.g. service and manufacturing sector. The former may support policies to subsidise agriculture and protect the sector from cheaper imports while the latter may support economic liberalisation which allows them to access cheaper imports.
- **workers-employers** – consists of social groups based on labour and capital relations. The labour groups consisting of workers promote policies that advance workers' rights and social welfare. The employers' groups promote policies that support capital investment and utilization.
- **materialists-post materialists** – consists of social groups based on their value of materialism and post materialism. Materialist values are the concern of social groups that have experienced political and economic insecurity leading them to give priority to political and economic stability. A social group with post materialist values has been exposed to greater economic and political security and is oriented towards satisfying other needs such as equality of opportunity and citizen involvement in decision making.
- **open-closed societies** – consists of social groups either supporting or opposing free movement of goods, labour, capital across societies.

4.2 Institutional-based models

Institutional based models entail the recognition of formal government institutions and formal rules as key drivers of policy formulation. A political system based on rules and institutionalism provides a platform for the adoption of policies that respect and promote a formal system and governance through institutions. Institutions shape behaviour (which is reflected in policy formulation) through institutional processes and rules. Under the models, policies are formulated through the set procedure, by the respective institutions and reflect the institutional values and principles. These models affirm the recognition that government is the core agent of policy formulation and adoption. One of the implications of these models is that private actors should recognise that government institutions are responsible for leading the policy formulation process and that policy formulation takes place within the formal rules and systems.

4.3 Interest-based models (rational choice approach)

Interest-based models are based on policy actors and interests in making choices through rational choice approaches. Policy actors are categorised either as fully "rational" or "boundedly" rational. A rational actor is broadly perceived to make choices about public policy that tend to maximise his or her anticipated utility. In order for a choice to be rational, an actor must be faced with alternatives that can be ranked in order of utility and priority. The policy options available to a policy maker must be in a position where they can be ranked in order of priority. Rational policy choice requires that preferences meet two characteristics. First, the preferences must be complete i.e. all alternatives must be ranked in order. Second, the options should be transitive i.e. if alternative A is preferred to B and alternative B is preferred to C then A must also be preferred to C. In addition, the actor must be in possession of appropriate information and should be able to use the information to choose from among the possible policy options.

An actor with bounded rationality is presumed to be goal oriented and pursues the concept of "satisficing" which describes a situation where a person settles on a solution that is satisfactory.

Rational choice approach can be used to explain the behaviour of elected officials, bureaucrats and interest groups as private actors. Elected officials and therefore political parties are deemed to be vote-seeking, office-seeking and policy-seeking. Political parties in an electoral competition maximise electoral support for the purpose of controlling government, occupying influential political offices (e.g. cabinet) and to advance their policy objectives through political process. Political leaders and their parties have significant influence over public policy through their views, values and policy objectives.

For bureaucracy, it is deemed to be budget-seeking bureaucracy. Bureaucrats seek to maximise their departments' budgets to increase their salary and prestige. Since the departments are allocated budgets according to the quantity of their services they supply, bureaucrats aim to maximise the quantity of services supplied. They tend to increase the output of services so that their departments could be allocated higher budgets. In addition, bureaucrats may also be seen to be maximising on status and quality of their work through what is referred to as bureau-shaping approach. In this approach, bureaucrats may seek to reorganise internal systems to strengthen their policy-making roles, reorganising internal work practices through increasing status of monitoring activities, redefining relationship with external partners to maximise their control over policy, compete with other bureaux over defence of policy oriented responsibilities or transfer to other bodies functions and tasks that do fit with their preferred bureau shape or assumed purpose.

Private actors seek to influence public policy through participating in the process by financing, providing specialist knowledge and engagement in political campaigns. However, private actors influence on policy depends on their access and influence over policy makers (elected leaders and bureaucrats), their financial and informational capacity and degree of competition from other competing private actors.

5. Public policy process or policy cycle

As noted above, policy formulation is a key component of public policy process and one of the stages in public policy cycle. Public policy process entails five stages i.e. problem identification, definition and agenda-setting, policy formulation, decision making, policy implementation and policy evaluation¹.

In each of the stages in the cycle, there is a specific problem being solved and there are key actors that are involved. See table 1 and figure 1 below

Table 1: Stages, problems & actors

| Stage in Policy Cycle | Applied Problem Solving | Key Actors |
|---|---------------------------------------|---|
| Problem identification, definition & agenda-setting | Problem recognition | Policy universe ¹ |
| Policy formulation | Proposal for solution | Policy subsystem ² |
| Decision making or policy adoption | Choice of solution | Authoritative government decision makers ³ |
| Policy Implementation | Putting solution into effect | Policy subsystem |
| Policy evaluation | Evaluation and monitoring for results | Policy universe |

¹ Policy universe means all policy actors involved in defining the policy problem or demanding government action

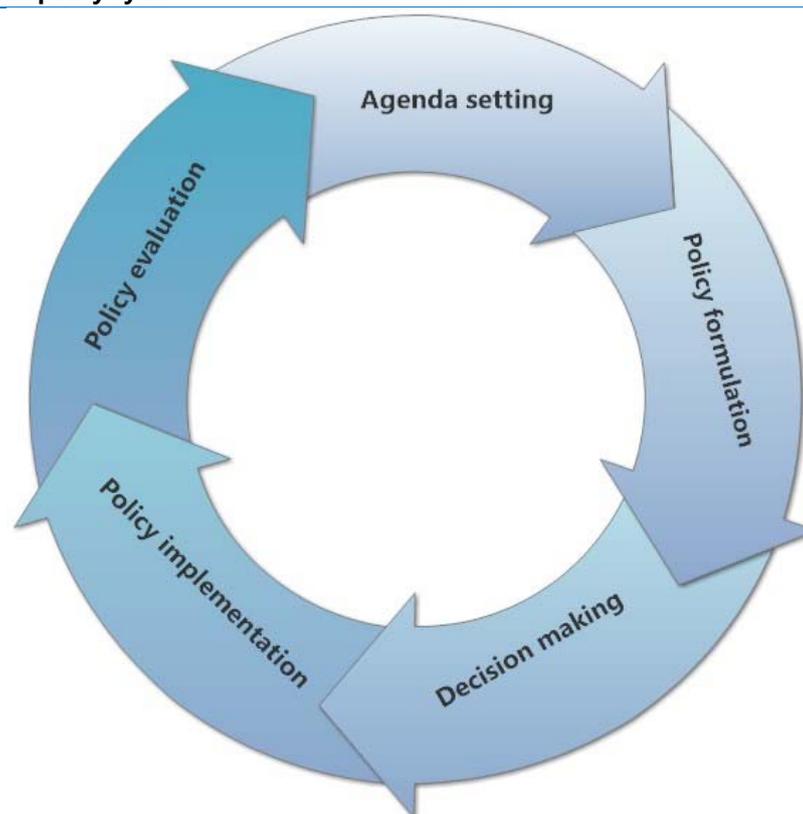
² Policy Subsystem means the actors with sufficient knowledge of a particular problem area, or a resource at stake to allow them to participate in the policy process.

³ Authoritative Government Decision-Makers include elected official, judges or bureaucrats

Since this Unit focuses on policy formulation, the first three stages of the policy process are considered. The other two stages i.e. policy implementation and policy evaluation take place after policy formulation hence are not given any emphasis in this Unit. However, the Unit on *Policy analysis*, which is part of the module, covers the part of policy evaluation (although only to the extent that policy evaluation forms part of policy analysis).

¹ Howlett M, Ramesh M and Perl Anthony (2009): *Studying Public Policy, Policy Cycles and Policy Systems*, 3rd ed, Oxford University Press: Canada. Pg 12-13.

Figure 1: The policy cycle



6. Problem identification, definition and agenda setting

Policy formulation commences with identification and definition of a policy problem and setting the agenda for resolving the problem.

6.1 Problem identification and definition

Problem definition follows a causal relationship process which identifies the problems, describes what causes them, assigns blame to those causing them and the claims that the government is responsible for stopping the problems. The way a problem is defined determines the possible feasible policy solutions identified to deal with the problem. For example, the problem of joblessness may be defined as lack of education, lack of technical or vocational skills, rising inflation, apathy towards hard work or willingness to look for job or low investments that would create employment.

Different policy actors define problems differently depending on their values, policy goals that they pursue, whether they are public or private actors, interests, beliefs, social, economic, political ideologies and prevailing policy context among others.

The Unit on *Public policy analysis* provides a more detailed description of characteristics of policy problems.

6.2 Agenda-setting

Government is always faced with time and resources constraints. Consequently, for public problems to attract government action, they must be part of the government agenda. Agenda in public policy may be defined as the list of subjects or problems to which government officials and people outside government closely associated with those officials, are paying serious attention at any given time (Kingdon 2011). It is concerned with the way problems emerge, or not, as candidates for government's attention. Since the public problems are many and diverse, government must identify some problems as requiring priority attention over others.

Agenda setting is related to the recognition of some subject as a problem requiring government attention and hence forming part of the government agenda. The pressing societal problems and change of regime are some of the key factors influencing agenda setting. The policy agenda, in addition, consists of all the issues that are commonly perceived by the society including the political leadership as meriting public attention and that are within the mandate and jurisdiction of the governmental authority (e.g. within the functional assignment under the Fourth Schedule to the Constitution).

In principle, the government agenda is shaped by socio-economic and political environment, the distribution of power in society, the prevailing ideas or ideologies, the institutional frameworks of government and the process of decision-making within government.

There are two types of agenda i.e. **systemic agenda** and **institutional agenda**. The systemic agenda refers to all societal problems that demand public action and which qualify to form public discussion agenda. The problems may be of a general nature with no specific concrete solutions and may exist at different levels of political system (e.g. national and county levels). The institutional agenda contains problems that are being considered for action by decision makers in a more detailed and concrete manner. Once a problem has been included in the institutional agenda, the government prepares potential proposals and measures to address the problem. The aim of policy formulation advocacy should always be to move problems from systemic agenda to the institutional agenda so that government can address them. There are four approaches to agenda-setting namely

6.2.1 The process perspective

Under the process perspective, the agenda may be set as an outside government initiative, through mobilisation or as an inside-access initiative. Individual actors or group of actors outside government structures such as BMOs may initiate an issue for governmental action and then seek to have the issue discussed in the public domain. Institutions or political leaders may seek to move a systemic problem to the institutional agenda through mobilisation of the public to debate and deliberate on the issue. Finally, government actors may initiate institutional agenda from inside system while excluding public participation.

6.2.2 The power distribution perspective

Power distribution perspective refers to the contestation between different policy actors on having an issue form part of institutional agenda. The main issue of consideration is the power play between different actors. Each actor seeks to gain power through mobilisation of other like-minded actors, use of well thought out information such as data and statistics and framing or presentation skills.

6.2.3 The institution based perspective

The institution based perspective refers to the role of institutional structures in forming the institutional agenda and consequently setting the agenda to be followed. It also refers to the role of institutions in resolving power and conflict issues in problem solving. This is done through setting of institutional rules for decision-making on agenda setting.

6.2.4 The contingency perspective

Contingency perspective refers to the setting of agenda at the moment of the problems happening as opposed to prior planned processes. It takes into consideration that policy problems and solutions are constructed and debated independently and sometimes may take place at different times. Only when pre-determined solutions are coupled with perceived problems that a problem becomes part of institutional agenda.

7. Policy formulation

Policy formulation is the process of generating options on what to do about an identified public problem. The policy options that might help resolve the issues and problems recognised at the agenda-setting stage are identified, refined and formalised. Policy formulation is also the identification and setting out of the course of action to be adopted in solving the problems identified. It involves identifying and assessing possible solutions to policy problems or exploring the various options or alternative courses of action available for addressing a problem. In principle, this stage entails defining and weighing the merits and risks of various options and the identification of the alternative options in solving the problems.

7.1 Policy Instruments

When selecting the policy proposals, the government officials select the policy instruments, which are also referred to as the policy tools, or the governing instruments. These are the means or mechanisms, which the government uses to implement policies or achieve its policy proposals or solutions. Policy formulation entails matching potential policy instruments and the policy problems. There are four categories of most common policy instruments (with examples drawn from the National Trade Policy, 2016):

- Information-based policy instruments – *“The national government in collaboration with county governments and private sector shall facilitate the sector to design and institutionalize skills upgrading programs for owner managers and employees, with special focus on wholesale trading” (p 13)*

- Authority-based policy instruments – *“The national government and the county governments and the private sector willdevelop an enabling and business friendly legal and regulatory framework for retail trade subsector” (p 16)*
- Treasure-based policy instruments – e.g. *“The County Governments in collaboration with National Government and the Private Sector will thus endeavour to promote Public-Private Partnerships (PPPs) in the development and maintenance of wholesale hubs, markets and general infrastructure” (p 12)*
- Organizational-based policy instruments – e.g. *“A one stop office for accessing all National and County Governments’ business information and licences for whole sale trade shall be established” (p 11)*

The Unit on *Understanding public policy* offers a more in-depth analysis and examples of policy instruments. Any policy framework or document would ordinarily contain policy instruments covered in the Unit.

Policy instruments are framed in policy documents (especially sessional papers) as *policy statements*. Policy statements articulate the policy measures and actions that government will pursue in solving the problem. Policy statements in legislation are framed in the form of legislative provisions.

8. Decision-making (policy adoption)

Decision-making or policy adoption in policy process entails the process of officially approving the policy options as the official government action. The policy decisions lead to formal statements of intent to be followed by a public actor or to govern a particular sector. The process is mainly undertaken at national level by Cabinet and Parliament and at the county level by the county executive committee and the county assembly. The *Public Policy Analysis Unit* covers in more detail factors to be considered when adopting policy

The approaches to policy formulation described in section 4 above apply significantly during decision-making stage. Policy decisions are normally made within a political environment and interests. Political influence by the key decision makers has a key role to play. This explains why policy makers especially political leadership sometimes adopt policy measures based on partisan political interests rather than technical and objective rationale. Decision-making in policy process has therefore to balance between political interests (e.g. as outlined in section 4) and the technical and administrative realities. Therefore policy advocacy (e.g. by BMOs) has to take into consideration diverse political interests at play when seeking to resolve a particular policy problem.

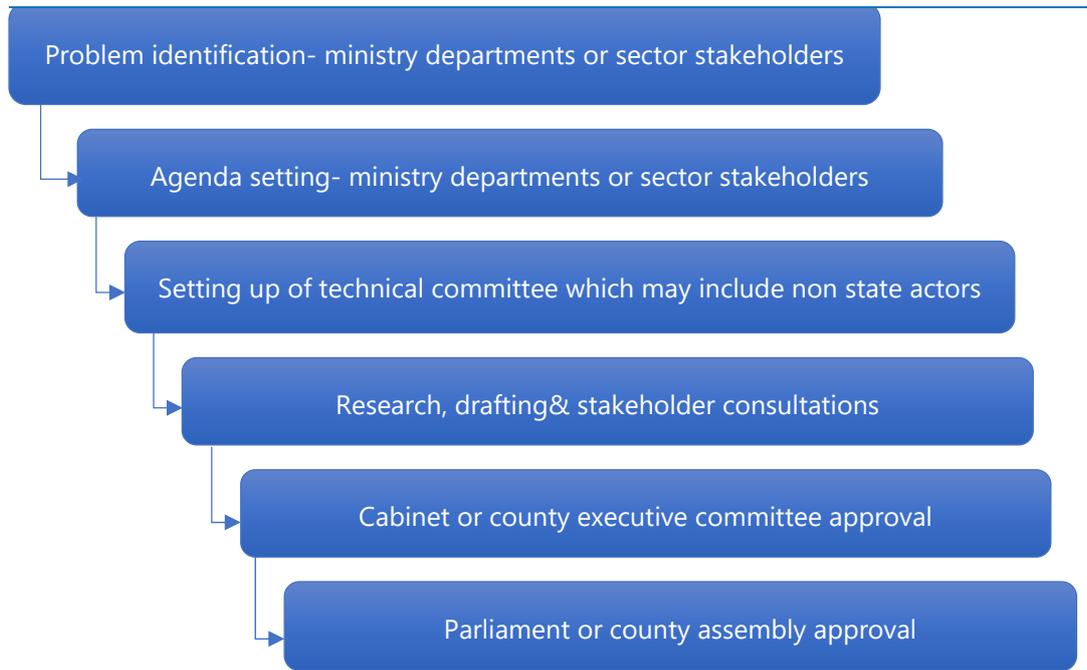
9. Procedure formulating policy and legislative instruments

Sessional Papers

The following is the procedure followed in formulating sessional papers at national or county government levels

10. Process of formulating sessional papers and Bills

Figure 2: Steps in formulation of sessional paper or Bill



1. Problem identification

- Ministry or county department identifies policy problem on its own initiative or through presentations from non-state actors or concerned citizens
- BMOs have opportunity to engage ministries and county department in identifying and framing problems

2. Agenda setting

- Ministry sets agenda by making pronouncements in public or planning policy development in medium term plans, budget policy statements, annual development plans and budgets
- Citizens, media and non-state actors mobilize the public on need to resolve the public problem as a priority

3. Setting up technical committee

- Technical committee may include other departments whose mandate relate to the policy problem
- BMOs may propose or second technical experts to support the committee

4. Research, drafting and stakeholder consultations

- Ministry or county department undertakes policy research and drafting of the policy
- BMOs have the opportunity to present research study reports and evidence, policy position papers and policy analysis reports relevant to the policy issue.
- BMOs should maintain constructive partnership with government so as to utilize the opportunities for influencing policy process

- Stakeholders and the public are ordinarily invited to submit their views on the policy issue mainly through public advertisements or specific invitations to specific stakeholders

5. Cabinet or county assembly approval

- Ministry or county department submits the sessional paper to cabinet or county executive committee for consideration and approval
- Cabinet or County executive committee considers the sessional paper in order to ensure that it conforms with constitutional and statutory requirements, public finance principles and economic agenda and that it will achieve the intended policy goals
- Where BMOs do not agree with the whole or some aspects of the sessional paper, they should submit memorandum to cabinet concerning the policy
- Cabinet may approve, approve with further recommendations for change or reject the policy proposal. If the sessional paper is approved, its transmitted to Parliament or county assembly for consideration and adoption

6. Parliament or county assembly

- Parliament or county assembly considers the sessional paper through respective departmental committee
- Parliament or county assembly considers the sessional paper and invites the stakeholders and the public to submit memorandum with the views on the policy issue
- BMOs have the opportunity to submit memorandum with their views as well as supportive documents such as policy analysis reports and policy position paper
- The departmental committee makes a report on the sessional paper and tables its report to the house for debate and approval
- Where Parliament or county assembly approves the sessional paper, the sessional paper is published in the *Kenya Gazette* and it becomes the official government (public) policy.
- Sessional papers are normally reviewed continuously but they are reformed after a period of 10 years after which new policy strategic direction is adopted

Statutes (Bills)

The procedure for formulating Bills is the same as the above procedure for formulating sessional papers except for the following aspects

- A Bill could be new legislation or amendments to existing legislation
- Bills are ordinarily developed for purposes of implementing relevant sessional papers where there is one in existence
- A ministry submits the draft Bill to the Attorney General as instructions for final drafting of the Bill (legislative proposal) while at the county level, its submitted to the head of legal services
- Once the cabinet or county executive committee approves the Bill, it is submitted to Parliament or county assembly respectively. Government Bills are sponsored by chairpersons of relevant departmental committees

- A Member of Parliament or county assembly can sponsor a Bill since the legislative authority vests in the legislative bodies. This presents an opportunity for BMOs to prepare a Bill and seek an individual legislator to sponsor the Bill. Examples of Acts of Parliament sponsored by individual legislators in support of private sector include the Micro and Small Enterprises Act and Physiotherapists Act.
- Once a Bill is published (in either Parliament or county assembly), it goes through 6 key legislative stages before it becomes law–
 - **Stage 1 – First reading**
The Bill is introduced to House the read for the first time without being debated
 - **Stage 2 – Committal of the Bill to the Committee** The Bill is committed to the respective departmental committee for scrutiny and stakeholder consultations or public participation. The committee prepares a report on its findings, public participation and proposed amendments to the Bill. The Committee report is very persuasive on whether the Bill will have support of the House as well as what amendments to be made. BMOs should engage the committee through presentations of evidence and policy recommendations which should be made in the form of draft legislative amendments to the Bill for consideration by the committee
 - **Stage 3 – Second reading**
The Committee tables its report to the House. In addition, the sponsor of the Bill moves the Bill by articulating its objective. Other members have the opportunity to contribute on the merits or demerits of the Bill. No amendments are made at this stage
 - **Stage 4 – Committee of the Whole House** (the Whole House sitting as a Committee)
The Bill is read and passed clause by clause. Amendments to the Bill are made at this stage. Members may propose further amendments to the Bill. Private actors e.g. BMOs have an opportunity to engage through legislators to propose amendments through a memorandum
 - **Stage 5 – Third reading**
The Bill is read for the third time after the committee of the Whole House stage. Amendments may still be introduced at this stage although they are rare. Once the Bill is read for third time and it is passed, it cannot be amended again.
 - **Stage 6 – Assent**
Once the Bill is passed in the respective House, it is submitted to the President for assent. After the Bill is assented, it is published in the *Kenya Gazette*. County assembly Bills are assented by the Governor and published in *Kenya Gazette* and *County Gazette*. The President or governor may refer the Bill back to the House with reservations (especially where stakeholders such as BMOs have raised their fundamental concerns with them before assenting). The House may consider the reservations and take into consideration the reservations

and enact the Bill again. However, the House may reject the reservations and by a two thirds majority enact the Bill again after which the President or Governor must assent it. If the president of the governor does not assent to the Bill or send it back to the House with reservations within seven days after submission, the Bill automatically becomes law.

Regulations and rules

- The process for developing sessional papers applies to development of Regulations and Rules
- Regulations and rules are prepared in accordance with the powers granted under the substantive legislation. They are prepared in order to provide for specific details and procedures that cannot comprehensively be provided for under the main legislation
- The Statutory Instruments Act, No. 23 of 2013 provides for procedure of preparation of statutory instruments (mainly regulations and rules). The regulatory requirements that government entity must meet include stakeholder participation and preparation of regulatory impact assessment and statement. BMOs should engage with the agencies or ministries in development of the content of Regulations through submission of impact assessment
- Once the Regulations have been prepared, the respective ministry publishes them in the Kenya Gazette (and county Gazette in the case of county assembly). After publication, the respective ministry submits a copy of the Regulations or Rules to Parliament (or county assembly) for consideration and adoption
- The respective departmental committee (mainly committee on delegated legislation or the substantive departmental committee) scrutinizes the Regulations or Rules to ensure conformity with the substantive Act, Statutory Instruments Act and other statutory and constitutional requirements.
- The committee conducts public participation on the Regulations or Rules and prepares a report to the House. BMOs have an opportunity to engage with the Committee either in support or opposition to the Regulations. Submission of evidence on policy analysis is critical. If a committee recommends that the Regulations or Rules be adopted, they shall continue being effective. If the Committee that the Regulations or Rules be revoked, Parliament or county assembly may pass a resolution to revoke the instruments after which the respective minister shall revoke them.
- Regulations or Rules expire after 10 years unless they are expressly exempted

Policies at multilateral level (UN, AU, EAC & COMESA)

- The treaties establishing the respective organs contain the administrative mechanism for making policies and legal instruments
- A member state may initiate the process of development of a legal instrument through preparation of a text (e.g. legal text on a specific protocol) which is submitted

- The heads of States and government may during their ordinary meetings authorize by resolution, commencement of preparation of legal instruments or policies
- The national technical experts in the respective state ministries prepare and negotiate at technical level the texts of the respective instruments. National ministries engage their national stakeholders on development of the national policy position in respect of the legal or policy instrument being prepared
- Once the technical experts build consensus on the provisions of the legal instruments, they submit the instrument to the council of ministers who review and adopt the legal or policy instrument. The negotiations are mainly conducted through Conference of Parties
- Once the council of ministers adopts the legal instrument, it is submitted to the ordinary meeting of heads of States and governments for adoption.
- Once a legal or policy instrument is adopted, each individual state is required to ratify the document by sending notification to the secretariat of its intention to ratify. States are allowed to ratify instruments with reservations. Once a state ratifies a legal instrument, its bound by the instruments and its expected to keep the commitments
- In EAC, the East African Legislative Assembly has the mandate to enact laws that seek to implement the treaty, conventions and protocols adopted by the heads of states and government in East African Community. The laws are binding on member states. BMOs can engage with the legislative assembly on development of Bills
- The Treaty Making and Ratification Act, 2012 provides for procedures for ratification of treaties into which Kenya is entering. Parliament is mandated to authorise any ratification of treaties. In addition, respective ministries are obliged to engage the public on the proposed treaties and adoption of the national position.
- BMOs should engage with respective line ministries on development or review of international instruments. In most of the cases, there are national steering committees for respective international instruments or development process which are open to participation by private actors
- Private actors, depending on the status granted by international bodies have direct access to the international bodies during the entire policy process. For example, BMOs in East Africa through their national or regional bodies have access to East Africa Community platform for policy dialogue

11. Reforming public policy

Policy reforms are part of policy process. At any given point during the policy implementation, there normally a need for reforming the policy in view of emerging trends and changes within a sector. The policy reform process is similar to the policy process described above. Policy reforms are initiated by political leadership as part of commitment in manifestos made during political campaigns (especially where there is drive for regime or fundamental policy changes). New political leadership at national or subnational levels is normally associated with policy reforms related to specific policy fields. Policy reforms may also be initiated by government (public service) in the ordinary course of public service delivery

where there is need to make improvements in specific sectors. However, private actors may have an influence on the process of setting the government agenda in policy reforms. The complementary Unit on *Policy analysis* has a section on when to conduct policy analysis, which in essence sets a good rationale for policy reforms.

BMOs therefore have opportunities to engage in political leaders and public officials to initiate in policy reforms. Some of the examples where private actors have played significant role in policy reforms in Kenya include reforms in financial services (banking services and mobile money transfers), telecommunications, business licensing, tax procedures and administration (especially automation simplification of tax procedures) and technology and innovation.

Policy reforms are mainly culminated or associated with public sector reforms. The reforms involve among others

- public sector management reforms e.g. performance management, accountability, transparency and efficiency
- public service (or civil service) reforms e.g. human resource management reforms
- public institutional restructuring or transformation e.g. setting up of new public organizations, re-organizing or restructuring the existing ones
- specific sector reforms e.g. investment and business climate reforms in specific sectors as it has happened in the energy, technology and telecommunications

Policy reforms mainly seek to

- improve efficiency, effectiveness and governance in public sector
- promote value for money especially in public service delivery
- promote innovation for the purpose of sector/industry development and public service delivery
- promote and facilitate process improvement (process re-engineering) in public sector
- promoting and facilitating private sector growth and development through reforming industry or sector processes and systems

Appendix 1: Template for memorandum on recommendations for reform

When proposing changes in relation to proposed sessional papers, Bills or Regulations as described above, it is important to structure the recommendations in the form of memorandum as indicated below.

Name of the Organization.....

Memorandum on

(State the Title of the Sessional Paper, Bill or Regulations)

Background information (describe why the organization is concerned about the issue)

| Section or part | Issues of concern | Proposals | Justification |
|--|---|---|--|
| Indicate the section of the provisions or parts sessional paper, Bill, Regulation e.g. S. 8 or Chapter 3 | State the issue of concern that you have with the provision i.e. what is the problem with the provision | Indicate the specific changes that you propose to be adopted. The provisions should be in the same form and language in the sessional paper or Bill | Describe your justification for the proposed changes |

(NB, this is covered in more detail in the unit of preparing policy positions)

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This series of advocacy competence handbooks – divided into modules and units – is intended to support business membership organisations (BMOs) to engage in public private dialogue and to advocate improvements to the business environment. You are free to use the units and other materials provided that the source is acknowledged. The handbooks are all available at businessadvocacy.net.

Module 1: The policy process

1.3 Formulating Public Policy

This unit introduces and explains the processes through which policy, legislation and regulation are agreed – at Kenya’s county and national levels and also at East African and international levels. Most countries follow broadly similar approaches.

The Business Advocacy Network is an initiative of Irwin Grayson Associates and can be found at businessadvocacy.net. IGA can be found at irwingrayson.com and contacted at david@irwin.org. You can follow David Irwin on twitter at [@drdaavidirwin](https://twitter.com/drdaavidirwin).

