

LOAN AUTHORISATION PROCESS IN MALAWI PARLIAMENT CURRENT PRACTICES

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Presentation Outline

- Parliament Authority on Government Loans.
- Bill Processes both outside and inside the Chamber.
- Current Practices and Experiences in the House.
- Way forward

Parliament Authority on Government Loans

- Section 180 (1) and (2) of the Constitution provides the mandate.
- A loan may be raised by Government under an Act of Parliament and not otherwise;
- Parliament in authorizing the loan may appropriate such proceeds to the Consolidated Fund.

Loan Authorisation Bill Processes

Pre Chamber Stage

- Exclusive remit of the Executive under Section 96 (1) (c) of the Constitution.
- Consultations, negotiations, drafting of Loan Authorisation Bills
- Publication and submission to Parliament through the Ministry of Justice or Finance.

Bill Publication

- Standing Order 125 regulates the procedure.
- The Minister in Charge delivers the bill to the Clerk of Parliament.
- The Clerk of Parliament publishes it in the Gazette.
- The Bill should be circulated to members at least 28 days before its introduction in the House.
- Before it is first read, the clerk has to refer it to the relevant Committee.

Chamber Processes

- Waiver of Notice is moved on the floor - SO 126.
- The Minister of Finance moves a motion to waive SO 125 for the 28 days circulation period requirement.
- On moving the motion he states reasons for the waiver - Grounds of Urgency.
- The Bill has to meet the 7 days circulation period if 28 days fails to be met before it is first read - SO 126(b).
- The Minister of Finance notifies the Speaker in writing who may allow it if satisfied with the reasons - SO126(C.)

Chamber Processes

Cont'

- Loan authorisation Bills follow all the five bill stages in the Chamber.
- First Reading- the Minister cites the bill title and indicates the date to be taken - SO 127.
- Second Reading - The Minister delivers the Statement on the Bill summarized in the memorandum - SO128.
- Debate ensues - *Bills can be referred to a Committee at any of these stages.*
- Committee Stage - the bill is scrutinized Clause by Clause - SO129.
- Report Stage- Minister reports on the progress made in the committee stage - SO 131.
- Third Reading - Minister moves a motion for the adoption of the Bill - SO 132.

Post Chamber Processes

- The Clerk of Parliament Sends clean copies to the President - SO134.
- Section 73 of the Constitution provides for the assent of the Bill by the President after Parliament has dully passed it.
- Finally the Bill is published in the gazette thereafter enforcement or implementation by the Minister.

Current Practices/Experiences

- 28 days notice period for circulation of the Bill is not frequently adhered to.
- Even the 7 days notice requirement in some occasions proved to be a challenge for adherence.
- Dependency on waivers on the floor of the House after getting authority from the Speaker.
- No guidelines to assist the Speaker in granting the authority to the Minister - focus is on urgency.
- Loan authorisation Bills are very brief - mostly 5 to 6 clauses with a memorandum explaining the intent of the Bill.
- Supporting documentation is not given to Honourable Members for scrutiny.
- Loan Authorisation Bills are not referred to Budget Committees as provided under SO 158 for scrutiny except in the last two Meetings of Parliament when members demanded that Parliament should start complying with OGP rules - Loan authorisation Bills were referred to Budget Committee.
- No proposed amendments have been made so far on Loan Authorisation Bills or even rejecting them - Except amending a Memorandum to the Cancer Centre Bill.

Way Forward

- Compare with other jurisdictions our Bill procedure such as Uganda, Ghana etc which have an elaborate procedure for handling Loan authorisation Bills.
- Review Current Bill Procedure for loan authorisation Bills in the POM to include very vital missing stages and documentation.