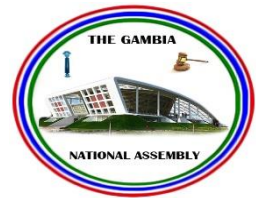




REPUBLIC OF THE GAMBIA

National Assembly, New Assembly Building, Reginald Pye Lane
Banjul, The Gambia



SPEAKER'S RULING

MONDAY 12TH SEPTEMBER, 2022

- 1) Honourable Members, I have been asked on a “Point of Order” by the Chairperson of the Standing Orders Committee of the National Assembly about the consequences for unfinished parliamentary businesses in the dissolved National Assembly (the Fifth Legislature), especially Bills, bearing in mind the convention that **a National Assembly (Parliament) cannot bind its successor Assembly**, and requested to make a ruling.
- 2) Section 99(1) of the Constitution of the Republic of The Gambia, 1997 provides: “*Subject to the provisions of this section, the National Assembly shall stand dissolved on the day immediately preceding the day appointed in accordance with section 97 for the first session of the next following National Assembly.*” Furthermore, section 100(1) vests the legislative power of the State in the National Assembly through bills passed by it and assented to by the President.
- 3) Honourable Members, neither the Constitution nor statute law deal with the issue of what happens to parliamentary business, including the passage of Bills, when the National Assembly is dissolved.
- 4) However, it is generally recognised in jurisdictions based on the Westminster parliamentary system that Parliament ends with its dissolution and when Parliament is dissolved all incomplete or unfinished business of Parliament is terminated.
- 5) Regarding the legislative function of Parliament and referencing the United Kingdom House of Commons and the Canadian House of Commons, this means all government Bills or private members’ Bills that have not received royal [presidential] assent prior to dissolution of Parliament cease to exist. This means that they cannot be carried over from one Parliament to another. This reiterates the longstanding convention that **a Parliament cannot bind its successor Parliament**.
- 6) As regards the National Assembly of The Gambia, which is also a Commonwealth jurisdiction, this means that any Bill which has not been assented to by the President before the dissolution of an immediately preceding National Assembly cannot be carried over to a successor National Assembly.

- 7) Honourable Members, especially those returning members, it is public knowledge that there were a good number of Bills tabled by government in the previous parliament (the Fifth Legislature) for consideration and passage. However, some of these Bills could not complete the legislative process and remained unfinished by the time the previous parliament was dissolved on 13th April, 2022.
- 8) The National Assembly may be asked what could it do to prevent the said Bills falling? In principle, a government must try to complete as much of the legislative process pertaining to a Bill as possible before the National Assembly is dissolved under section 99 (1) of the Constitution. This would accord with best practice in other Commonwealth jurisdictions.
- 9) However, where a government is unable to complete the legislative process regarding its Bills before the National Assembly is dissolved, a successor Assembly may in certain circumstances be inclined to consider preventing crucial Bills from falling by creating a legislative window of opportunity for government to carry them over.
- 10) This means that the National Assembly must decide whether the public or other appropriate, overarching interest justifies an exemption from the parliamentary convention in our local context.
- 11) Thus, Honourable Members, it may be asked why would the National Assembly permit a Bill to be carried over? It is my considered view that if a Bill is not carried over, a government either must abandon it or reintroduce it from scratch in a successor National Assembly. Honourable Members, carrying over a Bill can prevent any parliamentary scrutiny that has already taken place from going to waste and reduces the amount of valuable parliamentary time taken up by reintroducing important legislation in a successor National Assembly. Then how could the National Assembly permit Bills to be carried over? Honourable members, in the United Kingdom and Canada, as a rule, in certain circumstances Bills can be carried over from session to session within the same Parliament (when Parliament is prorogued) but not when Parliament is dissolved.
- 12) In The Gambia's context, there is no constitutional or statutory provision or a provision in our standing orders which outlines the circumstances under which the National Assembly could permit Bills to be carried over or the proper procedure for achieving this outcome, whether the Assembly is prorogued or dissolved.
- 13) Notwithstanding this omission, section 108 of the Constitution clearly provides that the National Assembly may regulate its own procedure and, in particular, may make Standing Orders for the conduct of its own proceedings.

NOW THEREFORE:

- 14) Cognisant of the Constitution of the Republic and the Standing Orders of the National Assembly;
- 15) Recognising the existence of the parliamentary convention, the omissions in our parliamentary law, and as well as the need for the National Assembly to adhere to the convention;
- 16) Whereas there is no express provision in the Standing Orders regarding the matter at hand and in accordance with Standing Order 8, I hereby rule that the convention be adapted to suit our local parliamentary context as follows:
 - (a) That the National Assembly **adhere** to the longstanding parliamentary convention to the **extent possible** in our local context;
 - (b) That all incomplete or unfinished government Bills or other businesses of the Fifth Legislature may be reinstated or reintroduced in this successor Assembly (the Sixth Legislature) subject to a motion by the person-in-charge;
 - (c) That, bearing in mind the convention, the respective persons-in-charge of the unfinished Bills or business **must table a motion**, with notice, before the National Assembly on each of the Bills or businesses requesting for a carry-over;
 - (d) That a Bill or business agreed to be carried over would be reinstated or reintroduced in the same form in the next ordinary session, at the same parliamentary stage it was prior to the dissolution of the immediately preceding National Assembly;
 - (e) That the timing of reinstatement or reintroduction of a Bill or business carried over to a successor National Assembly be decided by the Assembly Business Committee in consultation with the person-in-charge;
 - (f) That the Standing Orders Committee consider reviewing the Standing Orders on the matter with a view to proposing an amendment to expressly codify this convention before the **Seventh Legislature** to establish a special procedure for carrying over legislation and other businesses from a dissolved National Assembly bearing in mind this ruling;
 - (g) Finally, that the Office of the Clerk immediately notify all the affected persons or bodies regarding this ruling.
 - (h) This is my ruling in accordance with Order 8 of the Standing Orders of the National Assembly. Thank you.