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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2024

NAIROBI, 4th March, 2024

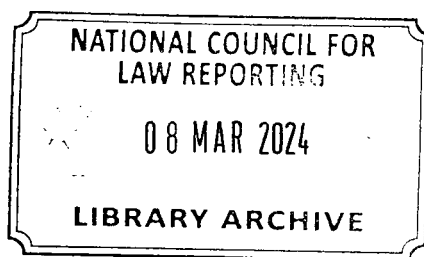
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**THE ETHICS AND ANTI-CORRUPTION
COMMISSION (AMENDMENT) BILL, 2024**

A Bill for

AN ACT of Parliament to amend the Ethics and Anti-Corruption Commission Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Ethics and Anti-Corruption Commission (Amendment) Act, 2024.

Short title.

2. Section 5 of the Ethics and Anti-Corruption Commission Act, 2011 (in this Act referred to as the “principal Act”) is amended by deleting sub-section (1) and substituting therefor the following new subsection—

Amendment of
section 5 of No.
22 of 2011.

“(1) The chairperson of the Commission shall be a person who is qualified to hold the office of a judge of the High Court under the Constitution.”

3. Sections 2 of this Act shall not apply to a person who immediately before the commencement of this Act was serving as a Chairperson of the Commission.

Saving provision.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The principal object of this Bill is to amend the Ethics and Anti-Corruption Commission Act No. 22 of 2011 to prescribe the qualifications for appointment of a Chairperson of the Commission. The Bill seeks to give effect to some of the recommendations and views of the public that were submitted during the national dialogue discourse on the Issues of Electoral Justice and Related Matters; Outstanding Constitutional Matters; Fidelity to Political Parties/Coalitions and the law on multiparty democracy; Entrenchment of the National Government Constituencies Development Fund; the Senate Oversight Fund and the National Government Affirmative Action Fund and Establishment and Entrenchment of State Offices.

Clause 1 of the Bill sets out the short title of the Bill.

Clause 2 of the Bill amends section 5 of the Act to prescribe the qualifications for appointment of a Chairperson of the Commission. The clause provides that the Chairperson of the Commission shall be a person who is qualified to hold the office of judge of the High Court under the Constitution.

Clause 3 of the Bill is a saving provision and provides that the Act shall not apply to a person who immediately before the commencement of the Act was serving as a Chairperson of the Commission.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement that the Bill does not concern county governments.

The Bill does not concern county governments in terms of Article 110 (1) (a) of the Constitution and it does not affect the functions and powers of county governments recognized in the Fourth Schedule to the Constitution.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may not occasion additional expenditure of public funds.

Dated the 29th February, 2024.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.

OPIYO WANDAYI,
Leader of the Minority Party.

Section 5 of No. 22 of 2011 which it is proposed to be amend—

5. Qualifications for appointment as chairperson or member

(1) A person shall be qualified for appointment as the chairperson if that person—

- (a) meets the requirements of Chapter Six of the Constitution;
- (b) holds a degree from a university recognised in Kenya;
- (c) has knowledge and experience of not less than fifteen years in any of the following fields—
 - (i) ethics and governance;
 - (ii) law;
 - (iii) public administration;
 - (iv) leadership;
 - (v) economics;
 - (vi) social studies;
 - (vii) audit;
 - (viii) accounting;
 - (ix) fraud investigation;
 - (x) public relations and media; or
 - (xi) religious studies or philosophy; and
- (d) has had a distinguished career in their respective field.

(2) A person shall be qualified for appointment as a member of the Commission if that person—

- (a) meets the requirements of Chapter Six of the Constitution.
- (b) holds a degree from a University recognized in Kenya;
- (c) has knowledge and experience of not less than ten years in any of the following fields—
 - (i) ethics and governance;
 - (ii) law;
 - (iii) public administration;
 - (iv) leadership;
 - (v) economics;

- (vi) social studies;
- (vii) audit;
- (viii) accounting;
- (ix) fraud investigation;
- (x) public relations and media; or
- (xi) religious studies or philosophy; and

(d) has had a distinguished career in their respective field.

(3) A person shall not be qualified for appointment as a chairperson or as a member if the person—

- (a) is a member of a governing body of a political party;
- (b) is an undischarged bankrupt;
- (c) has been convicted of a felony; or
- (d) has been removed from public office for contravening the provisions of the Constitution or any other law.

(4) Subsection (3)(a) shall cease to apply to a person after two general elections have been held since the person ceased to hold such office.

